

Appendix C
Summary of UMIR Amendments

The UMIR Amendments are effective September 1, 2012. The UMIR Amendments repeal pricing restrictions on short sales; however IIROC does not propose to adopt a circuit breaker rule similar to Rule 201 because IIROC does not believe such a rule is necessary in the Canadian capital markets (as explained in more detail in the IIROC Notice).¹

The UMIR Amendments also change the marking regime for short sales such that various accounts which, in the ordinary course, do not take a “directional” position when undertaking a short sale (i.e. the short sale is being undertaken for arbitrage, market making or other trading strategy which generally results in the account being “flat” at the end of each trading day) are not required to mark sale orders as “short” but rather as “short-marking exempt”. Under the UMIR Amendments, the order designation “short-marking exempt” is used in connection with orders for the *purchase* or *sale* of a security by any exempt account. IIROC suggests that, with this new order designation, it will be able to remove much of the “noise” in the short sale data flowing from trades by persons who are not taking a directional position. This, in turn, will permit IIROC’s new surveillance and monitoring “alert” system (described below) to operate more effectively. This “short-marking exempt” designation will not be displayed to the public.

The UMIR Amendments also include a limited pre-borrow rule that requires, subject to certain exceptions, a Participant or Access Person to have made arrangements to borrow securities that would be necessary to settle any short sale prior to the entry of the order on a marketplace if:

- the security has been designated by IIROC to be a “Pre-Borrow Security”;²
- the client or “non-client”³ account on whose behalf the short sale order is being entered has previously had an Extended Failed Trade; or
- the Participant had executed, as principal, an Extended Failed Trade in that particular security.

In addition, the IIROC Notice describes the introduction of a new IIROC surveillance and monitoring “alert” that is designed to detect abusive short selling activity on a timely basis and enable IIROC to take appropriate remedial or investigative actions, including designating the security as being ineligible for further short selling activity.

With the approval and forthcoming implementation of the UMIR Amendments, IIROC also expects to be in a position to produce, and to disseminate publicly, a semi-monthly report on the proportion of short sales in the total trading activity of each security across all marketplaces. It believes this should help

¹ See also IIROC Notice 12-0077 — Rules Notice — Technical — Effects of Short Sale Circuit Breakers in the United States on the Trading of Inter-listed Securities in Canada (March 2 , 2012).

² The UMIR Amendments would define a “Pre-Borrow Security” in Rule 1.1 as a security that has been designated by IIROC to be a security in respect of which an order, that on execution would be a short sale, may not be entered on a marketplace unless the Participant or Access Person has made arrangements to borrow the securities that would be necessary to settle the trade prior to the entry of the order.

³ A “non-client” is a person who is a partner, director, officer or employee of a Participant or a related entity of a Participant that holds an approval from an exchange or self-regulatory entity.

establish a better appreciation for the “normal” levels of short selling for each security. IIROC withdrew its 2007 proposal to repeal the UMIR short position reporting requirement, with the result that the CSPR will continue to be available.

IIROC suggests that, while no one data source can provide a “complete” picture of short sale activity or positions, the semi-monthly aggregate trading summaries will provide timely information in a cost efficient manner and will supplement the information available through the semi-monthly CSPR.