

OAURI

ONTARIO ASSOCIATION OF UNLISTED REPORTING ISSUERS

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July 26, 2002

Mr. Purdy Crawford, Chair
Osler, Hoskin & Harcourt LLP
Barristers and Solicitors
Box 50, 1 First Canadian Place
Toronto, Ontario
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Dear Mr. Crawford:

I am writing on behalf of the Ontario Association of Unlisted Reporting Issuers (OAURI) to provide comments on the recommendations set out in Section 9.5, The Unlisted Market, of the Five Year Review Committee Draft Report dated May 29, 2002.

The introductory paragraph in this section states "All CDN quoted securities moved to TSX Venture and all unquoted securities moved to the new CUB." The determination of whether a security was "quoted" or "unquoted" was arbitrarily made, that is to say there were many companies that were listed on CDN, that had traded regularly during the past several years, but had not traded in the month of August, 2000 and were not invited to apply for listing on Tier 3 of the then CDNX.

The introductory paragraph also includes a statement that "CUB issuers are not required to ... provide any regulated disclosure to investors". This is an incorrect statement of fact. Companies on CUB are reporting issuers in Ontario and are required to meet all of the obligations of reporting issuers, including the auditing of financial statements, the filing on SEDAR, etc. to maintain their status as a reporting issuer in good standing. The fact is that the CUB issuers have all of the obligations, responsibilities and costs associated with being a reporting issuer in Ontario and none of the benefits of being a publicly traded company.

We agree with your recommendation that the Commission and the CSA require QATRS and the unlisted market to obtain recognition under securities legislation and to develop a harmonized approach to QARTS and the unlisted market. Our comment on this recommendation is that the development should occur at the earliest possible time.

An estimated 200,000 shareholders in Ontario have holdings in companies that are on CUB . Because this trading information is not publicly available:

- Shareholders and brokers are not able to determine the market price of these shares;
- Unlisted companies themselves – companies which in many cases have had a positive impact on the economic development of the province) - have been left to wither and die (see **Fact Sheet 2** for details);

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- The Ontario Securities Commission is violating its most sacred mandate: ensuring the transparency – and, therefore, the integrity – of the capital markets (see **Fact Sheet 1** for details).

We urge the Committee to reconsider its recommendation to include short and immediate time frame within which the harmonization should occur.

Respectfully Submitted,

E.J. Kirkwood

Elizabeth J. Kirkwood
President and Director
Ontario Association of Unlisted Reporting Issuers

Fact Sheet 1:

Effect of capital market restructuring on Canadian unlisted issuers

When the OSC restructured Canadian capital markets in October 2000, hundreds of companies that had traded on the Canadian Dealer Network (CDN) were left without a published market, and citizens across the province who own shares in these companies were left with which no way to determine the value of their holdings.

CUB is an Internet site where securities dealers report trades in unlisted companies. However, none of the trading information is publicly available on the web site or anywhere else. In fact, each registered dealer cannot access the trading information made by other registered dealers.

Without the existence of published market, it is impossible for an Issuer to:

- Raise funds through equity financings, including a prospectus financing or private placements, flow through offerings, etc.;
- Grant employee stock options under favourable income tax treatment, as the options must be granted at the market price or at a premium to the market;
- Enter into business combination agreements that are fair and reasonable to the shareholders of the Issuer, with no value to be given to the market value of the Issuer.

Fact Sheet 2:

Ontario Securities Commission's published statements relating to market integrity

- “The purpose of the over-the-counter trading system is, firstly, to provide details of the trades made by dealers each day so that the detail and volume of the trading in shares of reporting issuers might be published prior to the opening of the next day's trading for the information of the public and dealers. This will foster informed investment, better markets and facilitate trading in the shares of the particular issuer. Secondly, it provides statistical data of all trading and enables the Commission to maintain surveillance over the trading and support of its timely disclosure policy. The later is aimed at providing an equal opportunity for information for all investors.”

Re-publication of the OSC Manual for Registrants, 1975

- “The new system will lead to greater efficiency for the investment community and the capital markets. The COATS system will provide the quality, quantity and publicity of information needed to have a suitable trading environment for ... junior companies in Ontario.”

OSC and TSE joint press release, May 1985, announcing creation of Canadian Over-the-Counter Automated Trading system (“COATS”), the immediate predecessor of CDN

- “Computerized dissemination of current quotes, better OTC trading statistics and standardized procedures are expected to increase dealer and investor confidence in the OTC market, improve market efficiency and facilitate capital formation by junior issuers.”

OSC Policy 1.8 (the ‘COATS Policy’), which governed COATS from its inception until March 1, 1991, when operating authority over the responsibility for COATS was transferred from the OSC to the TSE

- “In order to ensure the efficient functioning of the capital markets, investors must be provided with timely, reliable and high quality information as the basis for making informed investment decisions.”

OSC's 1996/1997 CDN Continuous Disclosure Review Program Final Report