



Swift Trade Securities Inc.
443 University Avenue
3rd Floor
Toronto, On.
M5G 2H6
Tel.: 416-351-0000 Fax: 416-351-8118

August 27, 2001

Canadian Securities Administrators
c/o Ontario Securities Commission
Cadillac Fairview Tower
20 Queen Street West
Toronto, Ontario
M5H 3S8
Attention: John Stevenson, Secretary

Quebec Securities Commission
Stock Exchange Tower
22nd Floor, 800 Victoria Square (P.O Box 246)
Montreal, Quebec
H4Z 1G3
Attention: Claude St. Pierre, Secretary

Dear Sirs:

Re: ATS Proposal

We are writing to provide our comments on proposed NI 21-101, NI 23-101, OSC Rule 23-501 and OSC Rule 23-502 and related companion policies and forms (collectively, the "ATS Proposal"). A duplicate copy and a diskette are enclosed.

Prior to commenting on the ATS Proposal, we will briefly describe our business.

Swift Trade's Business

Swift Trade is a securities dealer registered in Ontario that provides electronic day trading services to Ontario residents. Swift Trade is also registered with the U.S. Securities and Exchange Commission and is a member of the NASD.

Swift Trade was Canada's first dealer providing day trading services, to its knowledge, and has received substantial publicity in the Financial Post, The Globe & Mail and The Toronto Star, among other media. Swift Trade provides state of the art training and trading facilities, and enables its clients to operate from their homes or offices or from Swift Trade's premises. It provides high speed execution and confirmation, and in fact its systems are faster than those used by most brokers. In addition, it enables clients to trade more directly and with less intermediation and is similar to enabling the client to be directly on the floor of a stock exchange.

While Swift Trade is a securities dealer, unlike "penny stock" brokers, Swift Trade does not "push" stocks of any kind, including penny stocks.

Because electronic day trading is premised on speed of execution, volatility and liquidity, most Canadian stocks are inappropriate subjects for day trading. Accordingly, Swift Trade provides access to electronically-traded New York Stock Exchange and NASDAQ listed or quoted stocks only. Its commission is U.S. 2.5 cents per share (U.S. \$0.025/share) to buy or sell. As most trades are of no more than 1,000 shares, its typical maximum commission is U.S. \$25 per transaction.

Alternatives such as Internet trading, telephone trading or PC-based trading through discount brokers generally do not provide nearly the speed and certainty of service provided by Swift Trade, as well as being subject to greater technological risks (as evidenced recently). Swift Trade provides real-time quotes, Dow Jones news, major market indices, charting and graphing capabilities, high-speed executions, on-line research materials and immediate confirmations, unlike some or all of these competitors. In addition, Swift Trade alone provides NASDAQ Level II access (which displays the depth of the market), SOES, Select Net, Island and Super DOT trading services. In addition, Swift Trade's more direct (rather than normal broker-intermediated) access means orders are much more likely not to remain unfilled, particularly in difficult market situations, thus empowering investors. Furthermore, day traders avoid (and pocket) the "spread", and are in full control of the execution of their trades and can cancel them at any time. Among other things, this means that they can control the execution of a "market" order in a rapidly rising market, unlike in other trading environments using a broker.

Electronic day trading is, as the name implies, exactly that. The investor generally owns no shares at the beginning or end of the day. Swift Trade's customers average approximately 30 trades per day, and generally focus more on momentum than on fundamentals. Minimum account balances of U.S. \$25,000 are required to trade, and a trader is automatically shut down if his or her account goes below U.S. \$15,000 until the account is topped up.

Prior to commencing day trading, clients must participate in an extensive training program, at a cost which is creditable against commissions.

Contrary to widespread myths about day trading, the majority of Swift Trade's longer-term clients are successful. This is perhaps not surprising, as momentum investing is what industry professionals have been doing for decades. Day trading has finally given individual investors the chance to participate.

Swift Trade clears all trades in the United States.

Swift Trade's clients currently benefit from insurance provided by the U.S. SPIC fund to the extent of U.S. \$500,000 per account and supplemental private insurance through AIG, a top-rated insurance company, to the extent of U.S. \$24,500,000 per account, which is significantly greater protection than would be provided to clients of SRO members by the CIPF in Canada. Of course, Swift Trade has also contributed to the Ontario contingency trust fund. The resulting protection is thus greater than would result under Ontario laws.

Day trading is growing extremely quickly in the United States, and Swift Trade is bringing its advantages to Ontario investors. Swift Trade provides enhanced and cost-effective access to trading facilities for NYSE, AMEX and NASDAQ listed or quoted investments, thus facilitating access to foreign markets at reduced cost. Swift Trade is providing low-cost and valuable services to Ontario residents, especially in view of the swing towards momentum investing and the well-documented computer problems of the on-line trading industry.

Access to Foreign ATSS

As noted above, Swift Trade provides its clients with access to U.S. ATSSs, as well as the NYSE, AMEX and NASDAQ. These ATSSs include, among others, Island. In fact, Swift Trade has been advised by Island that it is Island's first (and perhaps only) Canadian customer. The only securities

traded are those listed or quoted on the NYSE and NASDAQ (which may include inter-listed securities). To require U.S. ATSS such as Island to register as a dealer, and become a member of the IDA, and comply with the requirements that will apply to ATSSs, or to become an exchange in Canada or a member of the TSE, even assuming that any of these alternatives were realistically possible, is entirely inappropriate.

Comments

1. Treatment of Foreign ATSS and Foreign Securities

In their original ATSS proposals, published in 1999, the CSA would have exempted non-Canadian ATSSs who deal only through registered dealers from any requirement to register.

However, for reasons related solely to reciprocity, the CSA now intend to require such foreign ATSSs to register. This is an unreasonable trade barrier, in our view, that does not benefit the capital markets or investor choice and is contrary to the purposes set forth in section 1.1 of the Ontario Act. It would also potentially seriously harm our business, as U.S. ATSSs such as Island would likely be unwilling to incur the expense and burdens of becoming registered.

It would also create an unlevel playing field. Since there is no suggestion that foreign stock exchanges such as NASDAQ or the NYSE who deal directly or indirectly with Canadian dealers will require registration, it is unclear why ATSSs should be subject to a stricter standard.

It would also be impossible to satisfy since both IDA and OSC requirements (and perhaps those of other provinces) require a Canadian incorporated entity and a local presence. Thus a non-Canadian corporation could not be registered as a dealer or accepted as an IDA member.

Furthermore, how does a statement in a policy represent binding law, especially given the historic view (set out clearly in the 1999 proposals) that foreign dealers trading with Canadian dealers are not required to be registered? Unless made a rule, assuming appropriate jurisdiction to do so, this statement would appear to be incorrect at law.

If such registration were required, the only practical alternative would be to require Canadian dealers such as Swift Trade to indirectly access U.S. ATSSs through U.S. dealers, imposing unnecessary expense, delay and administrative burdens that would be particularly troublesome in the day trading area, where speed of execution in volatile markets is of paramount importance.

If a foreign ATSS trading securities in foreign markets were to become registered, it would become subject to information consolidation, market regulation, market integration, clearing and settlement, regulatory halt, audit trail, display (if they are also market-makers) and other requirements that simply make no sense. Securities foreign traded in foreign markets should not be subject to these requirements (including inter-listed securities if they are being traded via a foreign ATSS or market, especially as the NYSE, AMEX and NASDAQ are not subject to these requirements). Similarly, a registered Canadian ATSS trading securities in foreign markets should be exempt from these requirements.

The RFP indicates that U.S. ATSSs who wish to trade Canadian-listed securities will be required to maintain a Canadian price. Query how this would apply to inter-listed securities being traded in the U.S. The RFP further indicates that U.S. ATSSs would be required to establish a connection to the principal market, which appears to contemplate a Canadian exchange even in the case of inter-listed securities which trade primarily in the U.S. This too seems inappropriate.

On balance, the ATSS Proposals do not deal rationally with foreign ATSSs or securities being traded in foreign markets. Either they should be carved out of the ATSS Proposals, or else all current arrangements with foreign ATSSs should be grandfathered and exempted from registration.

August 27, 2001

Page 4

2. Risk Disclosure

The requirement for risk disclosure on foreign securities seems peculiar in the case of the U.S. given the quality of the U.S. markets. It would also slow down transactions due to the acknowledgement requirements, unless they apply solely to the dealer.

3. Short Selling

The "zero-tick" rule should not apply to trades in foreign securities or over foreign markets where different rules apply. In foreign markets, the local rules should apply, if they are to be governed by this rule.

4. SROs

Query also whether the NASDAQ Stock Market, Inc., as a recognized SRO in Quebec, would qualify as a recognized SRO for these purposes. S. 3.2(6) of CP 21-101 suggests not, but it is not clear why this is so in Quebec.

Thank you for the opportunity to comment.

Yours truly,

Peter Beck
President