

TSX INC. AND TSX VENTURE EXCHANGE INC.

Summary of Comments

On December 20, 2016, the TSX Inc. ("TSX") and TSX Venture Exchange Inc. ("TSXV") published a Request for Comments to solicit feedback on the current relevance and market impact of the insider trading marker summary reports that TSX and TSXV are required to publicly disseminate on an end-of-day basis (the "Required Insider Reports"). Below is a summary of the comments received. We received comments from the following eight commenters and thank all those who took the time to comment.

List of Commenters:

1. 1832 Asset Management L.P.
2. Canadian Security Traders Association, Inc. (CSTA)
3. Investment Funds Institute of Canada (IFIC)
4. ITG Canada Corp.
5. Leede Jones Gable
6. Manulife Asset Management
7. Portfolio Management Association of Canada (PMAC)
8. RBC Dominion Securities Inc.

Capitalized terms used and not otherwise defined have the meaning given to them in the Request for Comments published on the TMX website.

<p>Question 1: Are the Required Insider Reports useful for investors? If so, please explain why they are useful and how the Required Insider Reports are used.</p>	<p>Several commenters were of the view that the Required Insider Reports only benefit short-term investors that use the reports for speculative purposes. These commenters noted that, while the purpose of the reports were to "level the playing field" between investors and insiders, in practice, the reports are used by short-term oriented participants to detect trading activity from large security holders and take advantage of short-term market moves.</p> <p>For example, one commenter suggested that proprietary trading firms and hedge funds use the Required Insider Reports to detect trades from insiders in order to trade "along" with the insider in an attempt to scalp short term profits. This commenter also suggested that most major trading desks subscribe to the Required Insider Reports and may use the information to inform large clients entering new orders about whether the security is being acquired or sold in size by an insider. Such information could help the client determine the urgency of competing on contra side orders in a tactical fashion – likely improving their own execution costs to the detriment of the insider who is attempting to build or unwind a large position.</p> <p>It was also noted that, while it may be common for long term investors to use information on insider activity (such as the information from the Required Insider Reports) to determine underlying sentiment of insiders to make investment decisions,</p>
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	<p>the information available through SEDI within 5 days of an insider transaction is sufficient for such purposes.</p> <p>We heard from several commenters that the insiders captured by the Required Insider Reports include many portfolio managers who are only “insiders” because the aggregate assets managed by them on behalf of investment funds and accounts may cumulatively add up to more than 10% of an issuer. Portfolio managers typically do not have any knowledge of any material non-public information, nor are they in a ‘special relationship’ with the issuer. Accordingly, many investment decisions made by these insiders are not driven by a change in the portfolio manager’s views of the merits of a particular issuer, but by other factors such as client cash flow management in the multiple accounts and funds they manage and the need to rebalance portfolios. As a result, commenters noted that using the Required Insider Reports for the purposes of indicating changes of insider sentiment may be misleading and/or of limited utility in the case of such insiders.</p> <p>One commenter expressed that the timely information provided by the Required Insider Reports are very useful for investors with respect to junior listed securities, as trading by insiders may have a material impact on the prices of those securities.</p>
<p>Question 2: Does the public dissemination of the Required Insider Reports on an end-of-day basis result in the potential harms to large securityholders of issuers identified above? Are there other concerns and issues we have not identified?</p>	<p>All commenters agreed that the public dissemination of the Required Insider Reports on an end-of-day basis is harmful to large security holders. In particular, commenters agreed that sophisticated market participants are able to use the Required Insider Reports to trade ahead of these insiders who are acquiring or disposing of securities over a few days’ time, in the hopes of leveraging off of the insider’s decision to purchase or dispose of the securities, resulting in increased trading costs for the insider.</p> <p>We were told by commenters that this concern is especially acute for portfolio managers of public investment funds who are subject to other continuous disclosure obligations, including quarterly investment portfolio disclosure. This additional public disclosure assists sophisticated participants with guessing at which insider is making a trade and trading against the portfolio manager. The increase to the portfolio manager’s market impact costs negatively affects the investment performance of their managed accounts and investment funds and ultimately impairs the investment returns realized by end retail and institutional investors (and in turn, their retirement savings and/or other investment objectives). This impact can be significant over the long term and creates investor protection issues.</p> <p>Some commenters also noted that the information leakage caused by the Required Insider Reports creates disincentives for</p>

	<p>insiders to create large positions in the first place. In the case of interlisted securities, it can increase incentive to trade in the U.S. to mitigate market impact costs, generally decreasing liquidity in Canada. As a result, the trading activities of large security holders are unintentionally restricted and, given that such investors are of great value to corporate issuers, causes harm to Canadian issuers.</p> <p>However, while the Required Insider Reports may harm large security holders, one commenter believes that trades by large security holders are a material event and should be reported in the timeliest fashion possible.</p>
<p>Question 3: Should information regarding trading by insiders continue to be provided through the Required Insider Reports on a more timely basis than is currently publicly available through SEDI? If it should be delayed from the current end-of-day reporting, what length of delay is appropriate to balance between any benefits and issues associated with the current end-of-day reporting? For example, would delaying publication until T+3 achieve that balance?</p>	<p>Several commenters do not believe that the information in the Required Insider Reports should be provided on a timelier basis than is currently available through SEDI and strongly feel that the reports should be discontinued altogether, as the reports do not satisfy the regulatory policy objectives that supported the requirement in the first place. Instead, the Required Insider Reports has resulted in real harm to insiders and corporate issuers.</p> <p>Some of these commenters suggested that exchange-based insider reporting mechanisms may not be the appropriate mediums for such disclosure and noted that since the introduction of the requirement in 2006, technological developments have improved accessibility to insider information through SEDI/SEDAR filings and IIROC has greatly improved its monitoring capabilities. Further, other legislative developments with respect to insider reporting have matured, thereby reducing the usefulness of the reports.</p> <p>One commenter suggested that, while they do not believe that the Required Insider Reports should exist at all, they believe that, if the reports are deemed to be absolutely necessary, the length of the delay should be as long as possible and be at least 5 days.</p> <p>Four other commenters suggested that delaying the publication of the Required Insider Reports until T+3 would be preferable to the current end-of-day dissemination. However, these commenters believe that, in certain circumstances (e.g., depending on the liquidity of an issuer or the size of a position), three days may not be sufficient to allow an insider to divest or increase its position without permitting other participants to trade ahead of the insider. Some of these commenters further noted that they would also not object to the Required Insider Reports being eliminated entirely.</p> <p>These same commenters proposed an alternative solution and suggested that insiders who are considered non-disqualified “eligible institutional investors” under National Instrument 62-103</p>

	<p><i>The Early Warning System and Related Take-Over Bid and Insider Reporting Issues</i> (NI 62-103) should be subject to less stringent reporting requirements than other types of insiders, similar to the alternative monthly reporting system in NI 62-103. Because “eligible institutional investors” (including portfolio managers) generally acquire insider positions for purposes of investing on behalf of investment funds and managed accounts only, and not with a view to takeover, reorganize, amalgamate or merge with any reporting issuer (nor with any knowledge of non-public material information), the trading activity of these insiders are viewed to be less meaningful to the investing public than trades by other kinds of insiders who may have a more activist intention. Accordingly, non-disqualified eligible institutional investors are subject to less frequent reporting requirements under NI 62-103, which requires that they provide a summary report of their insider trades on a monthly basis, 10 calendar days following the end of the month in which the insider trades occurred. These commenters suggested that a similar framework for the Required Insider Reports should be implemented, which would not only prevent the risk of market participants using the reports to trade against these types of insiders, but would allow market participants to more clearly distinguish those types of trades that are indicative of insider sentiment or of a possible control transaction.</p> <p>In contrast to the other commenters, one commenter disagreed and expressed that the Required Insider Reports should be provided on the timeliest possible basis, and certainly on a more timely basis than SEDI, in order to ensure that material information is made available to all investors promptly.</p>
<p>Question 4: If the Required Insider Reports are considered to be valuable to the public, do you agree that similar information should also be made available from all marketplaces? How would this be best achieved? Is there a benefit to having the information be provided on a consolidated basis?</p>	<p>Although the majority of commenters were of the view that the Required Insider Reports should not be required in their present form, commenters agree that, if they are viewed to remain sufficiently valuable to the public and continue to exist, there are no reasons why any requirement to produce the reports should not be applicable to all Canadian marketplaces.</p> <p>Several commenters warned, however, that imposing a similar requirement on all marketplaces in Canada would incent large security holders to trade away from Canada to protect against the information leakage associated with the Required Insider Reports. Where possible, large security holders would attempt to trade in the U.S. or other international markets, which would harm the competitiveness of the Canadian market as a whole. We were also told that continuing this requirement for all marketplaces would make large security holders less likely to trade the securities of an issuer in which they are insiders, which would decrease overall liquidity. These commenters were generally of</p>

the view that any attempt to require this reporting from all marketplaces would only exasperate all the problems identified.

One commenter suggested that, rather than requiring exchanges to produce these reports, the established SEDI, early warning and alternative monthly reporting regimes are more appropriate mechanisms to require such disclosures. If modifications to insider disclosure requirements are deemed necessary, these channels are the correct mechanism to effect such modifications, as it would enable the reporting to be fair and consistent. This commenter encourages the CSA, in cooperation with IIROC, to explore strengthening measures to validate that obligations to report through SEDI and SEDAR are being complied with in a consistent and timely manner.

One commenter believes that the requirement to produce the Required Insider Reports should be extended to all Canadian marketplaces, as the current structure allows insiders to trade on other exchanges without this information becoming public. This commenter believes information from all marketplaces should be provided in a consolidated report.