

Amended Notice of Hearing

Hypo Alpe-Adria-Bank (Liechtenstein) AG (the Respondent)

Section 161 of the *Securities Act*, RSBC 1996, c. 418

- ¶ 1 The Commission will hold a hearing at which the Executive Director will tender evidence, make submissions and apply for orders against the Respondent under sections 161 and 174 of the *Securities Act*, RSBC 1996, c. 418 (the Act), based on the following facts:

The Respondent

1. Hypo Alpe-Adria-Bank (Liechtenstein) AG (Hypo Bank) is a Liechtenstein-domiciled bank.
2. During the period of November 1, 2006 to August 31, 2007 (the Relevant Period), Hypo Bank held accounts (the Hypo Bank Accounts) with eleven British Columbia investment dealers.
3. During the Relevant Period Hypo Bank, through its employees or third parties, purchased and sold (transacted) securities through the Hypo Bank Accounts for the benefit of third parties who were the beneficial owners of the securities (the Beneficial Owners).

Suspicious activity

Predominantly United States over-the-counter markets and sales

4. During the Relevant Period, approximately:
 - (a) 89% of the total volume and 85% of the total value of all of the securities transacted through the Hypo Bank Accounts were sales;
 - (b) 90% of the volume of securities transacted through the Hypo Bank Accounts was in issuers whose securities were quoted on the United States Over-the-Counter Bulletin Board (OTCBB) or Pink Sheets LLC (Pink Sheets);
 - (c) 430,000,000 securities constituting \$130,000,000 of OTCBB and Pink Sheets securities were transacted through the Hypo Bank Accounts; and
 - (d) 91% of the volume and 89% of the value of the OTCBB and Pink Sheets securities transacted through the Hypo Bank Accounts were sales.

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Spammed securities transacted in the Hypo Bank Accounts

5. During the Relevant Period, approximately:
 - (a) 9% of the issuers (spammed issuers) whose securities were transacted through the Hypo Bank Accounts were the subject of promotional emails (spam);
 - (b) \$11,000,000 of spammed issuers' securities (spammed securities) were transacted through the Hypo Bank Accounts;
 - (c) 67,000,000 spammed securities were transacted through the Hypo Bank Accounts; and
 - (d) 96% of the volume and 88% of the value of spammed securities transacted through the Hypo Bank Accounts were sales.
6. The high volume of sales of spammed securities through the Hypo Bank Accounts is an indicator of potential participation by some or all of the Beneficial Owners in transactions which contributed to a misleading appearance of trading activity in, or an artificial price for, securities traded in British Columbia, contrary to section 57 of the Act.

Large volume of market's total trading in certain spammed issuers

7. During the Relevant Period, the Hypo Bank Accounts' trades in certain spammed issuers (the Specific Spammed Issuers) accounted for between approximately 20% and 70% of the total market volume of transactions in the Specific Spammed Issuers.
8. The high volume of the Hypo Bank Accounts' trades in the Specific Spammed Issuers relative to the total market volume of transactions in the Specific Spammed Issuers is particularly indicative of potential participation by some or all of the Beneficial Owners in transactions which contributed to a misleading appearance of trading activity in, or an artificial price for, securities traded in British Columbia, contrary to section 57 of the Act.

Identities of the Beneficial Owners

9. Commission staff have attempted for months to obtain the names and contact information of the Beneficial Owners (the Identities), but have been unable to do so.
10. Hypo Bank says that because of Liechtenstein banking laws it is unable to provide the Identities to Commission staff.

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11. On the application of Commission staff, the Liechtenstein Financial Market Authority ordered that some of the Identities be disclosed to the staff (the Disclosure Order).
12. Hypo Bank is appealing the Disclosure Order, as are some of the Beneficial Owners.

Public interest

13. The suspicious activity detailed above indicates that some or all of the Beneficial Owners may have used the Hypo Bank Accounts to participate in transactions which contributed to a misleading appearance of trading activity in, or an artificial price for, securities traded in British Columbia contrary to section 57 of the Act.
 14. Without knowing the identity of the Beneficial Owners, Commission staff are unable to collect the evidence that would allow staff to confirm whether some or all of the Beneficial Owners have contravened the Act or acted contrary to the public interest.
 15. It is in the public interest for Hypo Bank to cease trading in British Columbia.
- ¶ 2 The Hearing will be held at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on January 30, 2008.
 - ¶ 3 The Respondent may be represented by counsel at the Hearing and may make representations and lead evidence. The Respondent is requested to advise the Commission of its intention to attend by contacting the Secretary to the Commission at PO Box 10142, Pacific Centre, 5th Floor, 701 West Georgia Street, Vancouver, BC, V7Y 1L2, phone: (604) 899-6500; email: commsec@bcsc.bc.ca.
 - ¶ 4 Determinations may be made in this matter if the Respondent or his counsel does not appear at the Hearing.
 - ¶ 5 December 19, 2007
 - ¶ 6 Brenda M. Leong
Executive Director