

IIROC NOTICE

Rules Notice
Request for Comments
Dealer Member Rules

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Contact:

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Plain language rule re-write project – Interpretation and standards; Proposed Rules 1100 through 1400

Summary of the nature and purpose of the proposed Rule

On April 13, 2011, the Board of Directors (“the Board”) of the Investment Industry Regulatory Organization of Canada (“IIROC”) approved the publication for comment of proposed plain language rules relating to rule interpretation, definitions, powers of the Corporation and principles of conduct (collectively referred to as the “proposed Rules”).

IIROC has undertaken a project to rewrite its rules in plain language. The primary objective of this project is to develop a set of rules that is more clear, concise and organized, without changing the rules themselves. In addition we have identified a number of rules that also require substantive revisions. These proposed Rules include the following substantive change rules:

- (1) Rule 1100, *Interpretation*;
- (2) Rule 1200, *Definitions*;



- (3) Rule 1300, *Powers of the Corporation*; and
- (4) Rule 1400, *Standards of conduct*.

The above noted existing rules have been identified as requiring substantive revisions in order to:

- eliminate unnecessary rule provisions;
- clarify IIROC's expectations with respect to certain rules;
- ensure that the rules reflect actual IIROC practices; and
- ensure consistency with other IIROC Dealer Member rules and applicable securities legislation.

Issues and specific proposed amendments

Current rules

Other than the proposed substantive revisions set out below, the proposed Rules 1100, 1200, 1300 and 1400 do not create any new obligations for Dealer Members and have been drafted to clarify the existing rules with respect to rule interpretation, definitions, powers of the Corporation and standards of conduct.

Proposed rules

During the plain language rule rewrite process, several aspects of these rules were changed for simplification beyond the initial scope of the rewrite project. There are some changes in these rules that are substantive in nature and therefore require publication for comment.

The current Dealer Member Rulebook includes a brief interpretation section which outlines four general interpretation related matters. The proposed Rule 1100, Interpretation, provides a more comprehensive review of matters that need to be considered when reviewing and interpreting the rules. Although many sections are categorized as new in proposed Rule 1100, the concepts discussed within these provisions are not new. These concepts already exist within the current Dealer Members rules. For example, proposed Rule 1100 clarifies that any references to a Dealer Member's board of directors includes an equivalent governing body for a Dealer Member that is not a corporation. Similarly, any references in the rules to a corporation type of entity would apply to other types of entities if the context is appropriate. Furthermore, the reference to times being Eastern Standard



Time is similar to the current rules; various provisions in the existing rules clarify that the time references refer to Toronto time. Similarly, reference to District Council and provinces also already exist throughout the rulebook. Proposed Rule 1100 clarifies that any reference to District Council means the District Council of the applicable District. Furthermore, any reference to provinces includes provinces and territories of Canada. For ease of reference and clarity these types of provisions have been introduced in proposed Rule 1100.

In addition to the plain language rewrite of the existing requirements to create proposed Rule 1100, the following substantive amendments are proposed:

- *Delegation by a Dealer Member*: The current Dealer Member Rules discuss the ability of a Supervisor to delegate tasks but not responsibility. However, the issue of delegation is not discussed generally. The proposed Rule 1100 specifies that if a *Corporation requirement* requires a person at a Dealer Member to perform a function, unless specifically prohibited, that person may delegate the tasks or activities involved in performing the function but not the responsibility. [1103]
- *Electronic signatures*: The proposed Rule will codify the current rule interpretation that, unless specifically prohibited, where the *Corporation requirements* require a signature for an agreement, contract or transaction, an electronic or digital signature will be acceptable, subject to applicable law. The current rule interpretation with regards to electronic signatures is set out in IDA Member Regulation Notice MR0177, *Electronic Signatures*. [1104]

The proposed Rules include a definitions section. The defined terms included in proposed Rule 1200 are generally those that have been used more than once throughout the rulebook. Terms that are used only in a single rule will be defined in that particular Rule. Additional terms are set out in General By-Law No. 1 and Form 1. The proposed Rules will clarify that any terms not defined in proposed Rule 1200, which are defined in securities legislation, have the same meaning as defined in the relevant Securities Act, Rule, Regulation or National Instrument and other similar document.

In addition to the plain language rewrite of existing provisions, some definitions have been flagged as new in proposed Rule 1200. Although these terms are not defined in the current Dealer Member rules, the terms and concepts are commonly used in the application of the current Dealer Member Rules and therefore, do not create any substantive changes. The following are examples of terms included in proposed Rule 1200 which have not been previously defined:

- *advisory account*,



- *agent,*
- *Chief Compliance Officer,*
- *Chief Financial Officer,*
- *Corporation requirements,*
- *employee,*
- *investment dealer,*
- *laws or applicable laws,*
- *recognized exchange or recognized association,*
- *related issuer,*
- *risk adjusted capital,*
- *securities legislation or applicable securities legislation,*
- *segregation,*
- *trader, and*
- *Ultimate Designated Person*

In order to more clearly identify defined terms within the rulebook, the defined terms will be italicized. Any terms defined in General By-law No. 1 (example: Dealer Member) as well as all categories of approved persons (example: Supervisor) will be capitalized as well as italicized.

The proposed Rules do not include any substantive amendments to proposed Rule 1300 - “Powers of the Corporation”.

Proposed Rule 1400 will include the following sections: *Introduction, Standards of conduct, Applicability, Policies and procedures,* and *Evidence of compliance with the Corporation requirements.*

- *Introduction, Standards of conduct and Applicability:* The text of these sections will be proposed through a separate project, the Consolidated Enforcement Rules.
- *Policies and procedures:* Consistent with current practices and expectations, proposed Rule 1400 will clarify that:
 - if a Corporation requirement mandates a Dealer Member to establish policies and procedures, those policies and procedures must be sufficient to meet the Corporation’s objectives and that the Dealer Member may establish more stringent policies and procedures; [1404(1)]



- guidelines provided by the Corporation, unless otherwise indicated, are intended to be acceptable compliance methods and that Dealer Members may use alternate methods to comply with the Corporation requirements; [1404(2)] and
- the Corporation may require a Dealer Member to adopt additional or different policies and procedures if the Corporation considers the Dealer Member's existing policies and procedures to be insufficient. [1404(3)]
- *Evidence of compliance with the Corporation requirements:* Consistent with the current practices and expectations, as well as the provisions set out *Dealer Member Rule 19 Examinations and Investigations*, proposed Rule 1400 will specify that the Corporation may require a Dealer Member to provide it with evidence, satisfactory to the Corporation, of the Member's compliance with the Corporation requirements. [1405]

The full text of the proposed plain language Dealer Member Rules 1100, 1200, 1300 and 1400 is attached.

Rule-making process

IIROC Staff involved representatives of Dealer Members in the rule development process; a copy of the proposed Rules were provided to the *Executive* committee of the Compliance and Legal Section ("CLS") for their input and comments.

The proposed Rules were approved for publication by the IIROC Board of Directors on April 13, 2011.

The text of proposed plain language Rules 1100 through 1400 is set out in Attachment A. The text of the existing Dealer Member Rules to be repealed is set out in Attachment B. A table of concordance is included as Attachment C.

Issues and alternatives considered

An alternative to the inclusion of the amendments being proposed was to leave the rules substantively as they were prior to the plain language rewrite. IIROC staff considered other pending projects and proposals as well as the extent of the potential, substantive changes identified in order to decide which of the substantive changes would be proposed as part of the plain language rule rewrite project. Those substantive changes which were originally identified as part of the plain language rule rewrite project, but which were ultimately excluded from the plain language rewrite project are being pursued as separate rulemaking projects.



Proposed Rule classification

Statements have been made elsewhere as to the nature and effects of the proposed Rules. The purposes of the proposed Rules are to:

- Ensure compliance with securities laws;
- Prevent fraudulent and manipulative acts and practices;
- Promote just and equitable principles of trade and emphasize the duty to act fairly, honestly and in good faith;
- Foster fair, equitable and ethical business standards and practices; and
- Promote the protection of investors.

IIROC Staff propose that rules pertaining to interpretations, definitions, powers of the Corporation and standards of conduct should be rewritten to reflect actual IIROC expectations, to enhance the clarity of the rule and to ensure consistency with applicable securities legislation. These amendments are in addition to the plain language rewrite of the existing rule provisions. The Board has determined that the proposed amendments are not contrary to the public interest.

Due to the extent and substantive nature of these proposed amendments, they have been classified as Public Comment Rule proposals.

Effects of proposed Rule on market structure, Dealer Members, non-members, competition and costs of compliance

With proposed plain language Rules 1100, 1200, 1300 and 1400, Dealer Members will benefit from enhanced clarity and certainty in rules relating to interpretations, definitions, powers of the Corporation and standards of conduct.

The proposed Rules will not have any significant effects on Dealer Members or non-Dealer Members, market structure or competition. Furthermore, it is not expected that there will be any significant, increased costs of compliance as a result of the proposed Rules.

The proposed Rules do not impose any burden or constraint on competition or innovation that is not necessary or appropriate in the furtherance of IIROC's regulatory objectives. The proposed Rules do not impose costs or restrictions on the activities of market participants that are disproportionate to the goals of the regulatory objectives sought to be realized.



Technological implications and implementation plan

There should not be significant technological implications for Dealer Members as a result of the proposed amendments. Proposed plain language Rules 1100, 1200, 1300 and 1400 will be implemented at the same time as the rest of the plain language rules.

Request for public comment

Comments are sought on the proposed amendments. Comments should be made in writing. Two copies of each comment letter should be delivered within 90 days of the publication of this notice. One copy should be addressed to the attention of:

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Investment Industry Regulatory Organization of Canada
Suite 1600, 121 King Street West
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A second copy should be addressed to the attention of:

Manager of Market Regulation
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario
M5H 3S8
marketregulation@osc.gov.on.ca

Those submitting comment letters should be aware that a copy of their comment letter will be made publicly available on the IIROC website (www.iiroc.ca under the heading “IIROC Rulebook - Dealer Member Rules - Policy Proposals and Comment Letters Received”).

Questions may be referred to:

Sherry Tabesh-Ndreka
Senior Policy Counsel, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
Phone: 416.943.4656
Email: stabesh@iiroc.ca



Attachments

Attachment A - Proposed Rules 1100, 1200, 1300 and 1400

Attachment B - Text of the relevant provisions within Corporation General By-law No.1, Article 1 and Dealer Member Rules 1; 16.5; 16.6; 17.15;; 35.1; 39, Appendix A; 800.3; 1300.3; 1800.1; 1800.8; 1900.1; 2600, Internal Control Policy Statement 1, General Matters; 2600, Internal Control Policy Statement 8, Derivative Risk Management; 2900, Part 1, Definitions; and 3100, Definitions

Attachment C - Table of Concordance