

IIROC NOTICE

Rules Notice
Request for Comments
UMIR and Dealer Member Rules

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13-0282
November 25, 2013

Summary of Comments Received on Proposed Guidance on Marketplace and Average Price Trade Confirmation Disclosure

On September 25, 2013, IIROC issued a notice requesting comments on proposed guidance respecting marketplace and average price trade confirmation disclosure (“Proposed Guidance”).¹ IIROC received comments on the Proposed Guidance from:

Haywood Securities Inc. (“Haywood”)
Investment Industry Association of Canada (“IIAC”)
Ken Kivenko (“Kivenko”)
PI Financial (“PI”)

¹ IIROC Notice 13-0241 – Rules Notice – Request for Comments – UMIR and Dealer Member Rules – *Proposed Guidance on Marketplace and Average Price Disclosure for Trade Confirmations* (September 25, 2013).



A copy of the comment letters received in response to the Proposed Guidance is publicly available on the IIFC website at [UMIR Request for Comments](#) and [Dealer Rules – Request for Comments](#).

Appendix A presents a summary of the comments received on the Proposed Guidance together with IIFC’s responses to those comments and revisions to the Proposed Guidance made in response to these comments.

On November 25, 2013, IIFC issued the final guidance on marketplace and average price trade confirmation disclosure² (“Guidance”). The Guidance varies from the Proposed Guidance as follows:

- explains that the location of the disclosures may be on the back side of the trade confirmation; and
- allows for abbreviation of certain parts of the disclosures.

² IIFC Notice 13-0283 – Rules Notice – Guidance Note – UMIR and Dealer Member Rules – *Guidance on Marketplace and Average Price Trade Confirmation Disclosure* (November 25, 2013).



Appendix A - Comments Received in Response to Rules Notice 13-0241– Request for Comments – UMIR and Dealer Member Rules – Proposed Guidance on Marketplace and Average Price Trade Confirmation Disclosure

Text of the Guidance (Changes from the Proposed Guidance Highlighted)	Commentator and Summary of Comment	IIROC Response to Commentator and Additional IIROC Commentary
<p>Executive Summary</p> <p>For the purposes of marketplace and average price trade disclosure on trade confirmations for listed and quoted securities³, Dealer Members may use the following language:</p> <ul style="list-style-type: none"> • Marketplace disclosure: “Traded on one or more marketplaces or markets, details available upon request.” • Average price disclosure: “May be an average price, details available upon request.” <p>This acceptable marketplace and average price disclosure language may be combined on trade confirmations <u>and may be placed on the back side of the trade confirmation</u>⁴.</p>	<p>PI – Requests permission to use abbreviated form of disclosure due to space constraints on the trade confirmation which must accommodate other disclosures and given systems limitations on the number of lines and characters on each line available for disclosure.</p>	<p>The disclosure should be clear to clients. The phrase “details available on request” may be abbreviated for both marketplace and average price disclosure to “details on req.”. The word “average” may be abbreviated to “avg” for the purposes of average price disclosure.</p> <p>The generic marketplace and average price disclosure may be placed on the back side of the trade confirmation. This does not apply to other trade confirmation disclosures required under Dealer Member Rule 200.1(h). IIROC may revisit the topic of disclosures and their location on trade confirmations as part of a future review.</p> <p>It continues to be acceptable to identify specific marketplaces or markets of execution for disclosure on trade confirmations and to identify specifically those transactions which are an average price on trade confirmations.</p>

³ “Listed security” is defined in UMIR as a security listed on an Exchange. “Exchange” is defined in UMIR as a person recognized by the applicable securities regulatory authority under securities legislation to carry on business as an exchange. “Quoted security” is defined in UMIR as a security quoted on a recognized quotation and trade reporting system. The marketplace(s) on which an order is entered or a trade executed should not be disclosed on the trade confirmation as “over-the-counter”.

⁴ The phrase “details available on request” may be abbreviated to “details on req.”. The word “average” may be abbreviated to “avg”.



Text of the Guidance (Changes from the Proposed Guidance Highlighted)	Commentator and Summary of Comment	IIROC Response to Commentator and Additional IIROC Commentary
<p>Impact</p> <p>Previously issued guidance respecting marketplace and average price disclosure on trade confirmations (“Previous Guidance”)⁵ is consolidated in this Guidance Note, which further clarifies acceptable average price disclosure language for use on trade confirmations. Dealer Members are permitted to adopt general marketplace and average price disclosure on all trade confirmations whether a trade is effected on one or more marketplaces or markets and whether a trade price is an average price of multiple trades or the price of a single trade.</p> <p>Clients will continue to be able to obtain further details of the execution of any order at no cost from Dealer Members, and trade confirmations will continue to contain requisite information such as price and any commission charged.</p>		

⁵ See Compliance Interpretation Bulletin C-119 – *Average Price Trade Reporting* (February 13, 1998), and IIROC Notice 12-0236 – *Rules Notice – Guidance Note – UMIR – Guidance on Marketplace Disclosure for Trade Confirmations* (July 27, 2012).



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<p>Acceptable Marketplace and Average Price Disclosure</p> <p>Since IIROC issued the Previous Guidance which indicated acceptance of general marketplace disclosure on trade confirmations in the following form: “Traded on one or more marketplaces or markets, details available upon request”⁶, IIROC received requests for relief from the form of trade confirmation disclosure referenced in the Previous Guidance concerning average price trade reporting associated with Dealer Member Rule 200.1(h)⁷. To reduce costs in the multiple marketplace environment, some Dealer Members have adopted trade processing functionality that aggregates transaction information onto one trade confirmation, but face at that point in the process operational limitations in identifying which transactions were aggregated for the purpose of average price disclosure. Thus Dealer Members have requested the ability to use general average price disclosure language on all trade confirmations so that they are not required to produce separate price disclosure language when a transaction reflects only one trade execution.</p>	<p>Kivenko – Suggests that average price disclosure specify that the “average is dollar weighted”.</p>	<p>The purpose of the disclosure is to provide notice that the price indicated on the trade confirmation may be an average price (i.e. arithmetic mean) calculated based on multiple trade execution prices (which can occur when a client order is filled by multiple executions). Therefore, the term “dollar weighted” is not relevant for this disclosure.</p>
	<p>Haywood – supports the proposed general average price disclosure which allows the firm to conduct trade compression and manage trade execution costs.</p>	<p>IIROC acknowledges the comment.</p>
	<p>IIAC – supports the initiative to consolidate the existing guidance and permit the use of general average price disclosure on trade confirmations.</p>	<p>IIROC acknowledges the comment.</p>

⁶ The guidance in IIROC Notice 12-0236 *op. cit.*, was adopted in relation to an amendment to Dealer Member Rule 200.1(h) made in recognition of the multiple marketplace environment, to allow the provision of disclosure on trade confirmations of “the marketplace or marketplaces on which a trade is executed, or use marketplace disclosure language acceptable to the Corporation”. The term “marketplace” is defined in UMIR as an exchange, quotation and trade reporting system or alternative trading system in Canada. The term “market” is not defined in UMIR but includes a “foreign organized regulated market” on which a trade in a security subject to UMIR may be executed.

⁷ IIROC members are exempt from trade confirmation requirements under National Instrument 31-103 - *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103) if they comply with corresponding IIROC requirements. NI 31-103 provides that written confirmation of the transaction may be set out in the aggregate but details must be provided upon request. Dealer Member Rule 200.1(h) sets out IIROC’s trade confirmation requirements. In addition, Part 3 of Policy 7.1 of UMIR requires a Participant to have appropriate policies and procedures to comply with trade disclosures on confirmations. Comparatively, FINRA Rule 2232 “Customer Confirmations” does not mandate market disclosure or that a transaction price is an average price on customer confirmations.



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<p>In order to alleviate these operational issues and to align with the general marketplace disclosure IIROC has accepted, IIROC will permit use of the following average price disclosure language on transaction confirmations: <i>“May be an average price, details available upon request.”</i> <u>This acceptable marketplace and average price disclosure language may be combined on trade confirmations and may be placed on the back side of the trade confirmation. The phrase “details available on request” may be abbreviated to “details on req.”. The word “average” may be abbreviated to “avg”.</u></p> <p>Dealer Members continue to be subject to the provisions of Dealer Member Rule 200.1(h) which requires that each trade confirmation must include, among other things: the quantity and description of the security; the consideration; and any commission charged in respect of the trade. <u>Specifically, in order to continue to comply with the provisions of Dealer Member Rule 200.1(h), all trade confirmation disclosures required under the rule, other than the revised marketplace and average price disclosures discussed in this Guidance Note, must continue to be placed on the front side of the trade confirmation.</u></p> <p>This acceptable average price disclosure language and acceptable marketplace disclosure language on trade confirmations may be used in circumstances when an order is executed on:</p> <ul style="list-style-type: none"> • a single marketplace in Canada; • multiple marketplaces in Canada; • a foreign organized regulated market (which includes markets in the United States); or • any combination of one or more marketplace and foreign organized regulated markets. <p>If an order has been executed in whole or in part on a foreign organized regulated market, IIROC recommends that the disclosure include the quantity</p>		



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<p>of securities traded on the foreign organized regulated market together with the applicable foreign exchange rate for any currency conversion.</p> <p>Dealer Members that are able to correctly identify specific marketplaces or markets of execution for disclosure on trade confirmations may continue to do so. Dealer Members that are able to correctly identify average price transactions for the purpose of average price disclosure on trade confirmations may continue to provide disclosure on the trade confirmation that a trade is at an average price with notice that details are available upon request.</p>		



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<p>Audit Trail Requirements</p> <p>Dealer Members must respect audit trail requirements⁸ and accordingly maintain appropriate records, including for the purpose of providing details of the execution of any order to the regulator or client upon request⁹.</p> <p>Clients may inquire as to the identity of the marketplaces or markets of execution and whether a trade price is an average price and request further particulars. In all cases, Dealer Members are to continue identifying and providing particulars of marketplaces or markets of execution and of average price trades in a timely manner at no cost to clients making request for such details.</p>		
<p>Impact on Existing Guidance</p> <p><i>This Guidance repeals and replaces the guidance set out in:</i></p> <ul style="list-style-type: none"> • Compliance Interpretation Bulletin C-119 – Average Price Trade Reporting (February 13, 1998); and • IIROC Notice 12-0236 – Rules Notice – Guidance Note – UMIR – Guidance on Marketplace Disclosure for Trade Confirmations (July 27, 2012). 		

⁸ Part 3 of Policy 7.1 of UMIR requires a Participant to have appropriate policies and procedures to ensure compliance with the requirements under UMIR, including Rule 10.11 which requires a Participant to comply with the audit trail requirements set out under Part 11 of National Instrument 23-101 - Trading Rules (“Trading Rules”). See reference in subsection 11.2(1) of the Trading Rules to recording requirements for receipt or origination of an order and subsection 11.2(4) to recording requirements for execution of an order. Dealer Member Rule 200.1(g) also requires an adequate record of each order, and of any other instruction, given or received for the purchase or sale of securities showing, among other things, the price at which the order or instruction was executed.

⁹ Section 11.3 of the Trading Rules requires a dealer to transmit information required to be transmitted to the regulation services provider and securities regulatory authority in electronic form. Section 8.3 of the Companion Policy to the Trading Rules elaborates that dealers are required to provide information in a form that is accessible to the securities regulatory authorities and the regulation services provider (for example, in SELECTR format).



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<p>Questions:</p> <p>While comment is sought on all new aspects of the Proposed Guidance, IIROC would specifically request a response on the following question:</p> <p>1. Would the use of general average price disclosure on trade confirmations impact Dealer Members’ ability to comply with the obligation to transmit, in an accessible electronic form, price or other trade information to IIROC or a securities regulatory authority?</p>	<p>Haywood – the use of general average price disclosure would not impact the ability to provide underlying trade details to an average price trade.</p>	<p>IIROC acknowledges the comment.</p>
	<p>IIAC – the average price disclosure will not affect Dealer Members’ obligation to transmit, in an accessible electronic form, price or other trade information to IIROC or a securities regulatory authority.</p>	<p>IIROC acknowledges the comment.</p>