

IIROC NOTICE

Rules Notice
Request for Comment
Dealer Member Rules

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Contact:

Angie F. Foggia
Policy Counsel, Member Regulation Policy
416 646-7203
afoggia@iiroc.ca

13-0174
June 27, 2013

Proposed Plain Language Rule Sections 2210 and 2211- Suspension and Termination of a Dealer Member

Summary of Nature and Purpose of Proposed Amendments

On March 28, 2013, the Board of Directors (“Board”) of the Investment Industry Regulatory Organization of Canada (“IIROC”) approved the publication, for comment, of revisions to the previously published proposed plain language rules 2100 through to 2700, *Dealer Member Organization and Registration Rules*, to exclude proposed plain language rule sections 2210 and 2211, relating to the District Councils’ power to terminate or suspend the membership of a Dealer Member under certain circumstances.

The objective of these revisions is to eliminate unnecessary rule provisions and redundancy in the IIROC rules, and to ensure that IIROC rules reflect current IIROC practices.



Issues and Specific Proposed Amendments

Relevant History

In the process of responding to various public and CSA staff comments relating to proposed plain language rules 2100 through to 2700, *Dealer Member Organization and Registration Rules*¹, IIROC revisited the necessity of proposed plain language rule sections 2210 and 2211 which deal with District Councils' power to suspend and terminate a Dealer Member.

Prior to the establishment of IIROC, IDA Rules set out the circumstances under which Dealer Members could be suspended or terminated. Prior to 2004:

- IDA By-law 8.8 allowed the applicable District Council² to suspend or terminate the membership of a Dealer Member that ceased to carry on the business of a securities dealer or that had been acquired by non-qualifying investors;
- IDA By-law 20.10 allowed the applicable District Council³ to suspend or terminate the membership of a Dealer Member as a disciplinary sanction;
- IDA By-law 20.30 allowed the applicable District Council to suspend the membership of a Dealer Member in the event the dealer's registration had been suspended, cancelled or had lapsed, or in the event the dealer became bankrupt;
- IDA By-laws 20.31 and 20.32 allowed the applicable District Council to continue to suspend or to terminate the membership of a Dealer Member that did not adequately address the reason for the suspension issued pursuant to IDA By-law 20.30; and
- IDA By-law 20.33 allowed the Chair or Vice-Chair of the applicable District Council, in consultation with at least one member of the IDA Board of Directors, to suspend the membership of a Dealer Member and direct the Dealer Member to cease dealing with the investing public if, in their opinion, a Dealer Member Rule was breached and the rule breach was likely to result in losses to the investing public.

In 2004, IDA By-law 20, *Association Hearing Processes*, was "modernized to reflect administrative law principles and to ensure processes that will permit the IDA to meet its member regulation

¹ Proposed plain language rules 2100-2700 were issued for public comment on February 11, 2011 (see IIROC Notice 11-0061).

² IIROC is not aware of an occasion where the power to suspend or terminate under IDA Dealer Member 8.8 has been exercised by a District Council.

³ In practice, these District Council responsibilities were carried out by a Hearing Panel.



mandate.”⁴ One of the major amendments made at the time was to more clearly set out in the rules which matters District Councils would continue to have decision making authority over (i.e. registration approval and registration related exemption requests) and which matters must be decided upon by a Hearing Panel. As a result, IDA By-laws 20.10 and 20.30 through 20.33 were repealed and replaced with the following rules:

- IDA By-law 20.13 setting out the Hearing Panel as the decision maker for various hearings including disciplinary hearings, settlement hearings and expedited hearings (formerly suspension/termination hearings);
- IDA By-law 20.34 setting out the Hearing Panel’s power to suspend or terminate a Dealer Member as a disciplinary sanction;
- IDA By-law 20.42 setting out the circumstances under which an expedited hearing can be held in front of a Hearing Panel, including a dealer bankruptcy, suspension of a dealer registration, a suspension of a dealer marketplace membership and a dealer that poses an imminent harm to the public; and
- IDA By-law 20.45 setting out the Hearing Panel’s power to suspend or terminate a Dealer Member in one of the circumstances described in Dealer Member Rule 20.42.

IDA By-law 8.8 was not amended or repealed at that time and as a result, IDA By-law 8.8 continued to permit an applicable District Council to suspend or terminate the membership of a Dealer Member under certain circumstances, despite the fact that amended IDA By-law 20 required that a Hearing Panel decide whether to suspend or terminate under other circumstances. IIROC believes this result was unintended.

When IIROC was established in 2008:

- IDA By-law 8.8 was retained as IIROC Dealer Member Rule 8.8
- IDA By-law 20.13 was incorporated into the definition of “Hearing Panel” set out in IIROC Dealer Member Rule 20.1; and
- IDA By-laws 20.34, 20.42 and 20.45 were retained as IIROC Dealer Member Rules 20.34, 20.42 and 20.45.

Current Rules

Consistent with the prior IDA Rules as set out above, IIROC Dealer Member Rule 8.8 continues to permit the applicable District Council to suspend or terminate the membership of a Dealer Member

⁴ Quote from IDA proposals to amend IDA By-law 20 published for public comment in OSC Bulletin dated November 7, 2003 (Volume 26, Issue 45).



under certain circumstances and IIROC Dealer Member Rule 20 requires that a Hearing Panel decide on whether to suspend or terminate under other circumstances.

Proposed Rules

Proposed Amendments

IIROC staff believes it is appropriate to revise previously published proposed plain language rules 2100 through to 2700, *Dealer Member Organization and Registration Rules* to exclude the plain language version of IIROC Dealer Member Rule 8.8, proposed plain language rule sections 2210 [suspension] and 2211 [termination], as we believe that in all circumstances a Hearing Panel should decide whether to suspend or terminate the membership of a Dealer Member.

A black-lined version of the proposed revisions is included as Attachment A.

Issues and alternatives considered

IIROC staff considered the possibility of maintaining the status quo; however, staff rejected this alternative and is committed to developing a set of rules that are clear and reflect current IIROC practices.

Classification of Proposed Amendments

Statements have been made elsewhere as to the nature and effects of the Proposed Amendments, as well as analysis. The purpose of the Proposed Amendments is to:

- establish and maintain rules that are necessary or appropriate to govern and regulate all aspects of IIROC's functions and responsibilities as a self-regulatory entity;
- promote the protection of investors; and
- provide for appropriate discipline of those whose conduct IIROC regulates.

The Board has therefore determined that the proposed revisions are not contrary to the public interest. Due to the extent and substantive nature of the proposed revisions, they have been classified as Public Comment Rule proposals.

Effects of the Proposed Amendments on Stakeholders

The Proposed Amendments do not impose any burden or constraint on competition or innovation that is not necessary or appropriate in furtherance of IIROC's regulatory objectives. They do not impose costs or restrictions on the activities of market participants (including Dealer Members and non-Dealer Members) that are disproportionate to the goals of the regulatory objectives sought to be realized.



Technological implications and implementation plan

The proposed revisions will be incorporated into the proposed plain language rule re-write project. The proposed revisions will not be implemented until the entire set of the Plain Language Rules has been published for an additional public comment period and approved by the CSA.

Given that the proposed revisions do not introduce any new costs or compliance challenges to Dealer Member, the proposed revisions will be incorporated immediately.

Request for public comment

Comments are sought on the proposed revisions. Comments should be made in writing. Two copies of each comment letter should be delivered within 60 days from the publication date of this notice. One copy should be addressed to the attention of:

Angie F. Foggia
Policy Counsel, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
Suite 1600, 121 King Street West
Toronto, Ontario, M5H 3T9

The second copy should be addressed to the attention of:

Manager of Market Regulations
Ontario Securities Commission
19th Floor, Box 55
20 Queen Street West
Toronto, Ontario, M5H 3T9
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 Rule Book – Dealer Member Rules – Policy Proposals and Comment Letters Received”.

Questions may be referred to:

Angie F. Foggia

Policy Counsel, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
416.646.7203
afoggia@iiroc.ca

Attachments

Attachment A - Black-lined version of the proposed revisions to previously published proposed plain language rules 2210 and 2211, *Dealer Member Organization and Registration Rules*

**INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
REQUIREMENT TO DISCLOSE MEMBERSHIP IN IIROC AS DEALER MEMBER
BLACK-LINE OF PROPOSED AMENDMENTS TO PROPOSED PLAIN LANGUAGE RULE
SECTIONS 2210 AND 2211**

1. A black-line of the proposed revisions to previously published proposed plain language rules 2100 through to 2700, *Dealer Member Organization and Registration Rules*, published for public comment on February 11, 2011:

~~2210. Suspension of membership~~

- ~~(1) The Corporation may, in accordance with the provisions of the Consolidated Enforcement Rules, suspend the membership of a Dealer Member after the Dealer Member has been given an opportunity for a hearing.~~
- ~~(2) A Dealer Member whose membership has been suspended under this Rule will cease to be entitled to exercise any of the rights and privileges of membership but will remain liable to the Corporation for all amounts due to the Corporation from the suspended Dealer Member.~~

~~2211. Termination of membership~~

- ~~(1) The Corporation may, in accordance with the provisions of the Consolidated Enforcement Rules, terminate the membership of a Dealer Member after the Dealer Member has been given an opportunity for a hearing.~~
- ~~(2) A Dealer Member whose membership has been terminated under this Rule will cease to be entitled to exercise any of the rights and privileges of membership but will remain liable to the Corporation for all amounts due to the Corporation from the terminated Dealer Member.~~