

IIROC NOTICE

Administrative Notice

General

Dealer Member Rules
UMIR

Please distribute internally to:
Institutional
Legal and Compliance
Regulatory Accounting
Senior Management
Trading Desk

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UMIR Related Exemptions

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Dealer Member Rule Exemptions

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Exemptions from Proficiency Requirements

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Exemptions Granted by IIROC for the Calendar Year 2014

Summary

Each year IIROC's Board of Directors, IIROC staff and IIROC District Councils consider and, in appropriate cases, grant exemptions from specific Dealer Member or Universal Market Integrity Rules (UMIR). The criteria for granting exemptive relief are specific and rigorously applied in order to ensure that investors are protected and the integrity of the capital markets is maintained.

This Administrative Notice provides a summary of the six hundred and sixteen exemptions granted in 2014, which were comprised of:

- One hundred and twenty exemptions from specified UMIR provisions, granted by Market Regulation Policy staff to Participants or Access Persons;
- Forty exemptions from specified Dealer Member Rules provisions, granted by the IIROC Board of Directors to Dealer Members;
- Seven exemptions from specified Dealer Member Rules not related to proficiency requirements, granted by IIROC staff to Dealer Members; and
- Four hundred and forty nine exemptions from IIROC proficiency requirements, granted to individuals by IIROC staff or by Registration Sub-Committees of IIROC District Councils.

Exemptions from UMIR Provisions Granted by IIROC Staff

Authority to Grant Exemptions

Rule 11.1 of UMIR gives IIROC staff the power to exempt a particular transaction from the application of a provision of UMIR, provided that such exemption:

- would not be contrary to the provisions of any applicable securities legislation and the regulation and rules thereunder;
- would not be prejudicial to the public interest or to the maintenance of fair and orderly markets; and
- is warranted after due consideration of the circumstances of the particular person or transaction.

Off-Marketplace Transaction Exemptions

Eighty-four of the one hundred and twenty UMIR exemptions were granted in response to requests by Participants for permission to act as principal or agent in off-marketplace trades.

Rule 6.4 of UMIR provides that a Participant, when acting as principal or agent, may not trade or participate in a trade except through the entry of an order on a marketplace. The rule lists a number of exceptions to this broad requirement. In other exceptional circumstances that are not itemized in the rule, a regulatory exemption is required to complete an off-marketplace transaction.

In accordance with Rule 6.4(2)(b), IIROC is able to grant a regulatory exemption as long as fair and orderly markets are maintained. IIROC may also grant an exemption when the execution of the trade(s) on a marketplace would make it impractical for the seller, purchaser or their agent(s) to comply with applicable securities legislation.

The following is a breakdown of the exemptions granted in accordance with Rule 6.4(2)(b):

Trading during a Statutory Resale Restriction

Fifty-nine exemptions from Rule 6.4 were granted permitting the transfer, to one or more accredited investors, of shares that were subject to a hold period under securities laws. In granting the exemptions, IIROC was satisfied that it was appropriate for the Participants to complete the transactions off-marketplace. The exemptions were subject to the Participant complying with any additional requirements imposed by the listing Exchange and reporting the details of the trade to a marketplace.

Certain Designated Trades as Principal

Where a Participant is taking on a significant block at a discount to the prevailing market price with the intention of immediately attempting to distribute the securities, IIROC may grant an exemption to allow the transaction to occur off-marketplace.¹ In 2014, IIROC granted ten exemptions, in accordance with Rule 6.4(2)(b), in order to complete a principal take-on trade off-marketplace in cases when the Participant would undertake a distribution of the securities to its clients.

Exempt Take-Over Bid

IIROC granted one exemption permitting a purchase to take place off-marketplace, under the private agreement exemption. Securities legislation requires that purchases made by an offeror be completed by means other than the entry of orders on a marketplace.

Other Exemptions under UMIR 6.4(2)(b)

National Instrument 45-102 provides an exemption from prospectus requirements for a distribution from control that satisfies certain conditions. Four exemptions were granted, permitting a controlling shareholder to trade securities of the issuer off-marketplace.

Six exemptions were granted in respect of an exempt issuer bid pursuant to an Order of the Ontario Securities Commission under section 104(2)(b) of the Securities Act (Ontario). These exemptions were necessary to allow the transactions to proceed pursuant to the Order.

¹ IIROC has previously issued guidance on the procedures for the execution by a Participant as principal of certain pre-arranged trades or intentional crosses that qualify as a “designated trade” under UMIR and which involve a distribution to clients of a significant block of stock: See Rules Notice 09-0224, *Guidance – Procedures for Handling Certain Designated Trades as Principal* (July 30, 2009).

Two exemptions were granted where the Participant sought to complete a transaction off-marketplace while the stock was subject to a non-regulatory trading halt and was not available for trading on the listing Exchange or any other Canadian marketplace. The transaction was necessary to allow the issuer to meet the continued listing requirements of the Exchange.

Two exemptions were granted where the Participant sought to trade in an illiquid security at a nominal value when there was no current bid for the security. The exemption was granted after considering the volume of the transaction, the nominal value and the potential for the disruption of a fair and orderly market.

Basis Order Exemptions

Thirty-six exemptions were granted in respect of the UMIR definition of “Basis Order” where a Participant sought to execute a trade in an Exempt Exchange-Traded Fund (“ETF”) as a Basis Order at a price derived from the execution of the underlying securities of the ETF. While ETFs are not specifically included in the UMIR definition of Basis Order, IIROC’s view is that the underlying principles of the Basis Order definition should not prevent ETFs from trading as Basis Orders. Accordingly, the granting of these exemptions is consistent with UMIR 11.1. IIROC is currently pursuing a UMIR rule amendment to address these particular situations².

For further information regarding the exemption types discussed in this section, please contact Kevin McCoy, Director, Market Regulation Policy (416) 943-4659.

Exemptions from the Dealer Member Rules Granted by the IIROC Board of Directors

Authority to Grant Exemptions

Dealer Member Rule 17.15 permits the IIROC Board of Directors to exempt a Dealer Member from any provision of the Rules where it is satisfied that to do so would not be prejudicial to the interests of the public, Dealer Members or their clients. In granting any exemption, the Board may impose terms and conditions as necessary.

Security Borrowing and Lending Margin Exemptions

IIROC’s Board of Directors granted to thirty-eight Dealer Members exemptions from the current margin requirements applicable to certain cash and security borrowing and lending arrangements. The exemptions provide interim margin requirement relief for:

- Cash and security borrowing and lending arrangements where the counterparty to the arrangement qualifies for credit risk assessment purposes as either an “acceptable counterparty” or a “regulated entity”, and

² See IIROC Notice [14-0077](#) – UMIR - Rules Notice – Request for Comments – “Proposed Amendments to the Definition of Basis Order” (March 27, 2014).

- Certain agency cash and security borrowing and lending arrangements where the agent under the arrangement qualifies for credit risk assessment purposes as an “acceptable institution” and other conditions are met.

The specific margin requirement relief granted is to allow:

- Higher levels of collateral to be delivered by the Dealer Member to the borrowing/lending arrangements counterparty³ without triggering a margin requirement, where the counterparty to the arrangement qualifies as either an “acceptable counterparty” or a “regulated entity”, and
- The same margin treatment for certain⁴ agency cash and security borrowing and lending arrangements as would otherwise apply if the agent was the principal counterparty to the arrangement.

It is intended that the exemptions will remain in effect until proposals to codify this margin requirement relief, currently awaiting approval by the Canadian Securities Administrators, are implemented by IIROC.

Cross Guarantee Exemptions

IIROC’s Board granted relief to two related Dealer Members from the applicable cross-guarantee provisions under Dealer Member Rule section 6.6, subject to certain conditions.

The relief will be superseded by any IIROC rules relating to the cross-guarantee requirements of applicable to Dealer Members. The Board of Directors will determine whether any rule implemented relates to the cross-guarantee requirement and supersedes this relief or necessitates voiding of this relief or application for amended relief.

For further information regarding the exemptions described above, please contact Louis Piergeti, Vice-President, Financial & Operation Compliance (416) 865-3026.

Clients’ Use of Automated Order system to trade Over-The-Counter

IIROC’s Board of Directors also granted exemptions to two Dealer Members whose clients do not trade on marketplaces from applicable provisions of Dealer Member

³ Under the exemption, where the Dealer Member:

- Delivers cash as collateral, a margin requirement is only triggered when the market value of the cash exceeds 102% of the loan amount
- Delivers securities as collateral, a margin requirement is only triggered when the market value of the securities exceeds 105% of the loan amount

⁴ To qualify for the margin relief, an agency arrangement must be one where the agent is an “acceptable institution”, the agent’s use of any collateral provided by the Dealer Member under arrangement is limited to situations where a Dealer Member default event occurs and the arrangement must qualify as an “Eligible Financial Contract” in the event of the bankruptcy of any of the parties to the contract.

Rule 3200A(1)(b), subject to certain conditions. Specifically, the relief provided permits the Dealer Members to allow their clients that trade on an over-the-counter basis to:

- use the client’s own automated order system to generate orders to be sent to the Dealer Member or send orders to the Dealer Member on a pre-determined basis; and
- manually send orders or generate orders to the Dealer Member which exceed thresholds on the number of orders set by IIROC from time to time.

For further information regarding the exemptions described above, please contact Deanna Dobrowsky, Vice-President, Market Regulation Policy (416) 646-7266.

Exemptions from the Dealer Member Rules Granted by IIROC Staff

Authority to Grant Exemptions

IIROC staff is permitted, under specific Dealer Member rules, to provide exemptions in specified circumstances where IIROC staff is satisfied that doing so would not be prejudicial to the interests of the public, Dealer Member or its clients. In these cases, IIROC staff may impose terms and conditions if necessary and appropriate.

Bulk Account Transfer Exemptions

In accordance with Dealer Member Rule 2300.11, IIROC staff granted seven exemptions from the requirements of Dealer Member Rule 2300 relating to account transfers. These “bulk transfer” exemptions permitted the Dealer Member to transfer the accounts of a large number of clients “in bulk” without complying in advance with certain client documentation requirements for individual account transfers and were in the best interests of the clients involved. The seven exemptions related to the acquisition of a Dealer Member’s business. Each Dealer Member was required to complete the client documentation within a reasonable time following the transfer.

For further information regarding the exemption type discussed in this section, please contact Joe Yassi, Vice-President, Business Conduct Compliance, (416) 943-6903.

Exemptions from Proficiency Requirements Granted by IIROC District Councils (or their delegates)

Background and Authority to Grant Exemptions

IIROC rules require anyone wishing to work at an IIROC-regulated firm in an “approved” role, including a client-facing advisory or sales role, a supervisory role or as an executive of the firm, to first obtain IIROC approval/registration. One of the three criteria IIROC uses to assess whether an individual is, or remains, “fit and proper” for IIROC approval is proficiency. The other two criteria

are integrity and solvency. To satisfy the proficiency criteria, individual applicants must meet IIROC's minimum education, training and experience requirements, which are prescribed under Dealer Member Rule 2900.

Further, if an individual completes a required course(s) but does not apply to be, or become an IIROC approved person within two years, the validity of the course(s) would lapse.⁵ Similarly, if an individual is approved by IIROC in a particular category but surrenders that registration, the validity of the qualifying course(s) would expire three years from the date the individual's approval was terminated.⁶

IIROC Dealer Member Rule 2900, Part II.C(a) gives the relevant District Council (or its delegate) the authority to exempt an individual (or class of individuals at a Dealer Member) from the requirement to write or rewrite any required course or examination, in whole or in part, subject to such terms and conditions as the District Council considers appropriate.⁷ In any proficiency application, the applicant must demonstrate that he/she has experience and/or education that demonstrates equivalency to the course content from which an exemption is being sought.

Summary report of proficiency exemptions sought

IIROC Registration received a total of four hundred and forty-nine proficiency exemption applications across its four offices in 2014⁸, an increase of 18% from the previous year. For purposes of this report we have counted each request to be exempted from writing or rewriting a particular course as a separate exemption application, even in cases where a particular individual may have sought multiple course exemptions.

The proficiency exemption applications filed over the reporting period covered a variety of proficiency requirements, including:

⁵ The only exception to the two-year stale-dating period is for the Canadian Securities Course, which lapses after three years.

⁶ Dealer Member Rule 2900 Part II contains a number of auto-exemptions from the requirement to write or rewrite a particular course on the condition the individual has completed alternative courses specified in that section. Similarly, Dealer Member Rule 2900 Part III sets out a "voluntary participation" program which enables an individual who is not currently approved to extend the validity of the Canadian Securities Course or the Conduct and Practices Handbook Course by completing prescribed professional development and compliance courses within prescribed time periods.

⁷ In practice each of IIROC's regional District Councils have delegated their authority to grant an exemption from the requirements of Dealer Member Rule 2900 to a subcommittee comprised of 3 to 5 members of that District Council called the Registration Sub-Committee of District Council or, in limited cases, to IIROC Registration.

⁸ Of the 449 proficiency exemption applications filed, 220 were filed in IIROC's Toronto office, 58 were filed in IIROC's Pacific office, 67 were filed in IIROC's Prairie office, and 104 were filed in IIROC's Québec office.

- prescribed portfolio management education and experience requirements;
- minimum entry-level proficiency requirements for Registered Representatives (“RR”) or Investment Representatives (“IR”);
- post licensing requirements for RRs, Registered Representatives Mutual Funds (“RRMF”), or Supervisors of retail Approved Persons;
- recognition of alternative work experiences for Supervisors of retail Approval Persons; and
- prescribed education requirements for Executives and Directors.

Of the four hundred and forty-nine proficiency exemption applications received, IIROC Registration staff recommended:

- approval of the exemption in four hundred and thirty-six cases (with or without conditions); and
- refusal of the exemption in thirteen cases.

The relevant District Councils agreed with all recommendations made by IIROC Registration staff.

The four hundred and forty-nine exemption applications can be segmented into the following categories:

- Ninety-five requests from writing or completing a proficiency requirement;
- Three hundred and twenty-two requests from rewriting or redoing a proficiency requirement;
- eight requests for an extension to complete a post licensing requirement⁹;
- Twenty-one requests to accept alternative work experience, in connection with the particular IIROC approval sought¹⁰; and

⁹ Post licensing requirements include the requirement for an RR to complete the Wealth Management Essentials Course within thirty months of IIROC registration; the requirement on Supervisors (retail) to complete the Effective Management Seminar within eighteen months of IIROC registration; and mandatory course upgrade requirements for RRs whose IIROC license was restricted to mutual fund sales only. These extension requests generally related to situations where the next available seminar offering extended beyond the individual’s due date, hardship situations, or administrative error by the sponsoring firm in tracking the post licensing requirement. In cases where the post licensing extension was sought by an RR, IIROC Registration often requests that the applicable District Council impose a period of close supervision by the sponsoring firm pending completion of the course.

¹⁰ These applications sought to have alternative work experience accepted in lieu of minimum experience requirements prescribed for individuals seeking to: (i) add portfolio management services to their IIROC approval; and (ii) act as a Supervisor over retail Approved Persons.

- three requests for relief from the full-time employment requirement while completing the applicable Training Program for RRs or IRs.

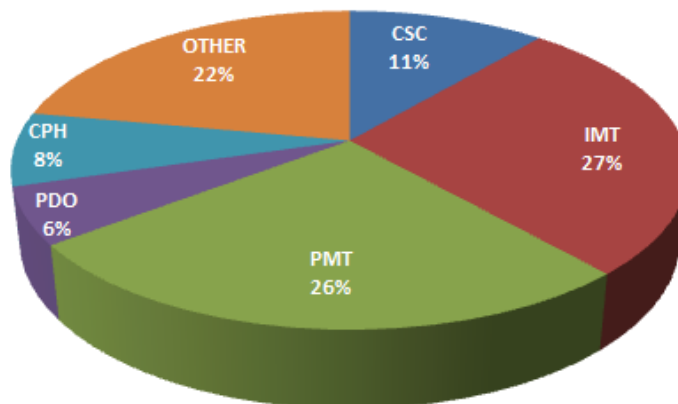
Frequently recurring proficiency exemptions

The most common and recurring exemptions sought were the requirement to write or rewrite the:

- Investment Management Techniques Course (“IMT”) (122 applications);
- Portfolio Management Techniques Course (“PMT”) (119 applications);
- Canadian Securities Course (“CSC”) (51 applications);
- Partners, Directors and Senior Officers Course (“PDO”) (26 applications); and
- Conduct and Practices Handbook Course (“CPH”) (34 applications)

Collectively, these exemption applications accounted for just over three-quarters of all proficiency exemptions processed by IIROC during the reporting period.

Applications Processed by Course



The reasons for IIROC Registration recommending exemptions for these applicants are discussed in more detail below. Each exemption application is considered on a case-by-case basis and the guidance outlined below does not present an exhaustive discussion of all factors considered in granting the exemptions.

IMT and PMT proficiency exemptions

The two hundred and forty-one IMT and PMT proficiency exemption applications related largely to RRs seeking to add portfolio management services to their IIROC registrations or, in a small number of cases, individuals applying for new registrations as RRs who provide portfolio management services¹¹. In the vast majority of applications reviewed, the individuals had successfully completed the IMT and/or PMT while they were continuously approved as RRs with IIROC but outside the prescribed two-year validity period specified in IIROC Dealer Member Rule 2900. In a few cases, the individuals had completed predecessor courses to the IMT and/or PMT while being continuously approved as RRs.

IIROC Registration staff recommended relief for the IMT and/or PMT based on the following factors:

- In the vast majority of cases, the individual held the Canadian Investment Manager designation (CIM) or the newer Chartered Investment Manager designation (CIM[®]) issued by the Canadian Securities Institute (CSI). Attaining either of these designations qualifies an individual for registration as an “advising” or “associate advising representative” with a firm registered as an adviser (portfolio manager) under National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations.
- Virtually all individuals in the cases reviewed exceeded IIROC’s minimum experience requirement to conduct discretionary portfolio management activities, with the majority of individual applicants having six to 20 years continuous registration as an RR dealing in securities for retail customers. The individuals had assets under management ranging from \$8 million to \$6 billion, with the majority having assets under management ranging between \$40 million and \$160 million.
- The individuals were able to demonstrate to the satisfaction of IIROC Registration staff that they had gained relevant investment management experience in the following ways:
 - I. while registered as an RR
 - II. research and analysis experience
 - III. previous registration as an advisor with a CSA registrant firm

¹¹ 82% of individuals seeking relief from having to write or rewrite the IMT also sought relief from having to write or rewrite the PMT. That is, the vast majority of individuals sought relief from writing or rewriting the IMT and PMT concurrently.

In many of these exemption applications, IIROC Registration staff also received and considered submissions from the sponsoring firm regarding the firm's internal portfolio management selection process, including the firm's review process to evaluate the individual's investment management experience and competencies.

CSC proficiency exemptions

Of the fifty-one CSC proficiency exemptions considered by IIROC, thirty-one were sought in connection with applications seeking IIROC approval as either an RR or IR, two in connection with applications as an RRMF, eight in connection with applications as a Supervisor, eight in connection with applications as an RR intending to conduct portfolio management activity, and two in connection with extensions from post licensing requirements. Of the fifty-one exemption applications received, forty-three sought relief from rewriting the CSC because the validity of the course had expired under IIROC Dealer Member Rule 2900, six sought relief from writing the course, and two sought extensions from the CSC post licensing requirement for RRMFs.

Most of the successful applications seeking an exemption from having to write or rewrite the CSC were decided on one of the following bases:

- Since completion of the CSC, the individual completed a course that built upon the content of the CSC, such as the Professional Financial Planning Course or the Wealth Management Essentials course offered by the CSI; the individual obtained a higher level designation, such as the CIM, Chartered Strategic Wealth Manager Professional ("CSWP[®]") or Chartered Financial Analyst ("CFA")¹².
- The individual's CSC expired for purposes of IIROC's rules while the individual was continuously registered in Canada with another non-IIROC registered firm, such as a portfolio manager, mutual fund dealer or exempt market dealer and the individual was able to demonstrate that their past registration history had contributed to keeping the individual's knowledge and understanding of the course material covered in the CSC current.
- The individual was able to demonstrate how his/her intervening work experiences (albeit in a non-registered capacity) kept their knowledge and understanding of the course material covered in the CSC current.
- With respect to the two CSC extensions granted from the post licensing requirement for RRMFs, both were supported due to medical reasons that prevented the individuals from completing the requirement by the deadline.

¹² Chartered Financial Analyst ("CFA") is administered by the CFA Institute

PDO proficiency exemptions

With respect to the twenty-six PDO proficiency exemptions considered by IIROC, eleven exemptions were sought in connection with applications seeking IIROC approval as an Executive, six were sought in connection with approval as a Director, four were sought in connection with approval as an Executive and Director, four were sought in connection with approval as an Executive and Supervisor, and one was sought in connection with approval as a Supervisor. Of the twenty-six exemption applications received, twenty-four sought relief from rewriting the PDO because the validity of the course had expired under IIROC Dealer Member Rule 2900 and two sought relief from writing the course.

All twenty-six applications seeking an exemption from having to rewrite the PDO were decided on one of the following bases:

- the individual was de-registered as an Officer due to changes introduced with Registration Reform but remained employed with an IIROC Member in a senior role; and/or
- the individual was able to demonstrate how his/her intervening work experiences (albeit in a non-registered senior role) kept their knowledge and understanding of the PDO course material current.

CPH proficiency exemptions

With respect to the thirty-four CPH proficiency exemptions considered by IIROC, 19 exemptions were sought in connection with applications seeking IIROC approval as an RR, six in connection with applications seeking IIROC approval as an IR, six in connection with approval as a Supervisor, and two in connection with approval as a PM. Of the thirty-four exemptions considered, twenty-eight sought an exemption from rewriting the CPH as the validity of the course had expired under IIROC Dealer Member Rule 2900, five sought an exemption from writing the CPH, and one sought a two-month extension to the CPH post licensing requirement for RRMFs.

The majority of successful applications seeking an exemption from having to write or rewrite the CPH were decided on one of the following bases:

- twenty-three of the exemptions received were individuals who had been previously approved by IIROC. The vast majority of these individuals continued to work in the securities industry in various unregistered capacities (i.e. compliance, managerial, mutual funds, banking & administrative) that kept them current with the topics and content covered in the CPH and many had completed successor courses to the CPH that built and expanded on the course content.

- Eight individuals seeking exemptions from writing or rewriting the CPH demonstrated equivalent knowledge to the course through registered or relevant experience as follows:
 - I. Employment as a Business Conduct Compliance Examiner or Senior Investigator with a Self-Regulatory Organization (SRO)
 - II. Senior Executive and Ultimate Designated Person (UDP) of an IIROC Dealer Member
 - III. Registration as an Advising Representative on the CSA platform¹³
 - IV. Registration as a broker in the United Kingdom¹⁴
- One two-month extension to write the CPH was granted due to medical reasons.
- Two exemptions from rewriting were denied as equivalency to the CPH was not demonstrated.

Refusal of exemption requests

IIROC Registration staff recommended refusal in thirteen cases of proficiency exemptions sought. In each case, the relevant District Council agreed with IIROC Staff. The unsuccessful applications sought exemptions from having to:

- Write or rewrite the Conduct and Practices Handbook Course (two exemptions) in connection with applications for registration as an RR.
- Rewrite the Canadian Securities Course (three exemptions) in connection with applications for registration as an RR.
- Write or rewrite the Branch Managers Course (three exemptions) in connection with applications for registration as a Supervisor of approved persons.
- Write the Derivatives Fundamentals Course (one exemption) in connection with an application for registration as a Supervisor of approved persons trading options.
- Write the Options Licensing Course (one exemption) in connection with an application for registration as a Supervisor of approved persons trading options.
- Rewrite the Options Supervisors Course (one exemption) in connection with an application for registration as a Supervisor of approved persons trading options.
- Relevant experience (two exemptions) required to supervise approved persons trading options.

¹³ Practical experience of the rules that govern the activities of a registered person

¹⁴ Practical experience of the rules that govern the activities of a registered person

In all of these cases, the individual applicants were not able to demonstrate that their education or experience was equivalent or relevant to the proficiency requirement for which the exemption was requested.

For further information regarding the exemption types discussed in this section, please contact Sandra Blake, Vice-President, Registration, (416) 943-6911.