

# IIROC NOTICE

## **Rules Notice Exemption Dealer Member Rules**

*Please distribute internally to:*  
Legal and Compliance  
Operations  
Retail  
Senior Management

*Contact:*

Richard J. Corner  
Vice President and Chief Policy Advisor, Member Regulation  
416.943-6908  
[rcorner@iiroc.ca](mailto:rcorner@iiroc.ca)

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## **Client Relationship Model - Phase 2**

### **Decisions of the Board of Directors - Exemption applications concerning the implementation of requirements to annually report on account performance and fees / charges**

#### **Executive Summary**

On July 15, 2016, amendments to Dealer Member Rule 200 (the “2016 CRM2 Amendments”) came into effect. These amendments require Dealer Members to send Retail Customers:

- an annual account performance report
- an annual account fee / charge report
- in the case of sale confirmations, details of any deferred sales charges incurred.

Dealer Members offer many different types of account service offerings. The 2016 CRM2 Amendments do not contemplate account service offerings or firm situations where:

- the provision of account services is shared between two registered firms (such as in the case of custodial accounts)
- the current reporting already provides clients with account performance and fee/charge information (such as in the case of futures, foreign exchange and contract for difference accounts)
- the only Retail Customer accounts maintained at the firm are accounts for firm management and owners and their relatives.

During 2016, we announced that IIROC would consider dealer requests to be exempted from the account performance and fee / charge reporting elements of the 2016 CRM2 Amendments where one of the above situations exists.



This notice:

- provides background on the implementation of the 2015 and 2016 CRM2 Amendments
- provides background on IIROC’s willingness to consider exemption requests from some of the new requirements
- summarizes CRM2-related exemptions granted by the IIROC Board during 2016.

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## **1. Background**

### **1.1 Implementation of 2015 and 2016 CRM2 Amendments**

On January 19, 2015 IIROC announced<sup>1</sup> that amendments to Dealer Member Rule 200 and Form 1 had been approved by the Canadian Securities Administrators and that these rules would be implemented in two stages on July 15, 2015 and July 15, 2016. We also indicated that we had received and were considering requests that IIROC delay the implementation dates by 5½ months to December 31, 2015 and December 31, 2016, respectively.

On June 11, 2015 we announced<sup>2</sup> housekeeping revisions to the 2015 and 2016 amendments, and the following revised effective dates:

- December 31, 2015, for the 2015 CRM2 Amendments
- July 15, 2016, for the 2016 CRM2 Amendments.

### **1.2 IIROC's willingness to consider exemption requests**

Dealer Members offer many different types of account offerings to different types of clients.

#### *Custodial account offerings*

Under a “custodial account” offering, the dealer provides some services and another registered firm provides other services for the same client account. The following is a basic breakdown of who does what under a custodial account service offering:

- trade execution, clearing and settlement - Dealer Member
- cash and investment position custody - Dealer Member
- provision of advisory or discretionary management services to the client - other registered firm.

Because the Dealer Members that offer this service open up a separate account on their books for individual clients of the other registered firm, they are technically required under IIROC requirements to provide the client with periodic account reports (including those introduced as part of the 2016 CRM2 Amendments). Where the account is not an order-execution-only services account, the Dealer Member must ensure that the account portfolio is suitable for the client.

Since under the custodial account offering another firm registrant provides advisory or discretionary management services to the client, and is required under National

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<sup>1</sup> Refer to [IIROC Rules Notice 15-0013](#) for details of the announcement.

<sup>2</sup> Refer to [IIROC Rules Notice 15-0128](#) for details of the announcement.



Instrument 31-103 to provide the client with an annual account performance report and ensure that trades are suitable for the client, we agreed to consider exempting Retail Customer custodial accounts from:

- the obligation to provide clients with an annual account performance report
- where applicable, the suitability assessment obligation.

*Futures, foreign exchange and contracts for difference account offerings*

Under other account offerings, such as futures, foreign exchange and contract for difference account offerings, the dealer provides clients with customized quarterly/monthly (and in some cases daily) account reporting that exceeds IROC's minimum requirements. Specifically, the information clients are provided includes:

- for each contract closed, any commission charged and the profit/loss realized on the trade (from the date the contract was opened until the date the contract was closed)
- for each open contract position, the unrealized profit/loss for the contract (referred to as "open trade equity")
- for all transactions entered into, the total trading commissions charged
- for all open contract positions, the total unrealized profit/loss.

Since under these account offerings the client is already receiving either equivalent or comparable performance and fee/charge information, on a more frequent basis than required under the 2016 CRM2 Amendments, we agreed to consider exempting these accounts from:

- the requirements to send a separate annual account performance report and annual account fee/charge report, where it was concluded that adequate account performance and fee/charge information is already being provided to clients
- the requirement to provide clients with annualized percentage return information and an annual roll-forward of account market value, where detailed realized and unrealized profit/loss and cash deposit/withdrawal information is already being provided in the quarterly/monthly account statement clients receive.

*Firm management and owner accounts*

Dealers may also make account offerings available to Retail Customers and Institutional Customers. Firms that specialize in dealing only with Institutional Customers ("institutional firms") are generally not subject to the 2016 CRM2 Amendments. However, some institutional firms do maintain a small number of Retail Customer accounts for the benefit of their directors, officers, partners and private shareholders. As the CRM2 Amendments (including the 2016 CRM2 Amendments) are focused on ensuring that arms-length Retail Customers are



provided with enhanced account position, performance and fee/charge information, we agreed to consider exempting these non-arms-length Retail Customer accounts from the CRM2 requirements.

### **1.3 IIROC survey of Dealer Members likely to apply for an exemption**

For each of the three types of exemption requests, we conducted a survey to ensure that all Dealer Members had an opportunity to request the exemption where applicable, and to determine the number of exemption applications we might receive.

## **2. Board decisions**

### **2.1 Custodial account offerings**

On June 29, 2016, the Board approved 9 Dealer Member applications for their custodial accounts to be exempted from the following IIROC rule provisions:

- the requirement to provide clients with an annual performance report set out in Dealer Member Rule subsection 200.2(f)
- where applicable, the requirement to assess suitability set out in Dealer Member Rule subsections 1300.1(p), 1300.1(r) and 1300.1(s).

The Board was satisfied that, because another registered firm is responsible for the client-facing services portion of the account relationship and is required under NI 31-103 to provide the client with an annual account performance report and ensure that trades are suitable for the client, there was no need to require that the Dealer Member also comply with the same requirements.

### **2.2 Futures, foreign exchange and contracts for difference account offerings**

On September 13, 2016 and November 16, 2016, the Board approved 13 Dealer Member applications for their futures, foreign exchange and/or contract for difference accounts to be exempted from the following IIROC rule provisions:

- the requirements in Dealer Member subsections 200.2(f) and 200.2(g) to send Retail Customers separate annual account performance and annual account fee/charge reports
- the requirements in section 200.2(f) to provide clients with:
  - annualized percentage return information [sub-clause 200.2(f)(ii)(E)]
  - an annual roll-forward of account market value [sub-clauses 200.2(f)(ii)(A) through 200.2(f)(ii)(D)].

The Board assessed whether the provision of:

- separate, less timely annual performance and fee/charges reports



- annualized account percentage return information

would be of sufficient incremental benefit to clients that transact in futures contracts, foreign exchange contracts and/or contracts for difference and that already receive daily/monthly/quarterly individual position and account performance and fee/charge information. Given that the positions and transactions in these accounts involve highly leveraged instruments whose values may fluctuate significantly on a daily basis, the Board determined that requiring the provision of additional annual performance and fee/charge information was not warranted. These exemptions are subject to the specific condition that clients continue to receive, at a minimum, specific monthly and quarterly performance and fee/charge information within the account statements they are sent.

### **2.3 Firm management and owner accounts**

On November 16, 2016, the Board approved two Dealer Member applications for accounts held for the benefit of directors, officers, partners and private shareholders of the firm to be exempted from the CRM disclosure and reporting requirements<sup>3</sup>.

The Board was satisfied that these account holders, due to their roles at the firm, already have access to adequate performance and fee/charge information. These exemptions are subject to the specific condition that private shareholders must acknowledge that they already have access to performance and fee/charge information for their account and that they don't wish to receive the disclosures otherwise required under the CRM disclosure and reporting requirements.

### **2.4 Other CRM-related exemption approved**

On November 16, 2016, the Board approved one Dealer Member application to revise the exemption order they received in 2015 relating to off-book client holdings<sup>4</sup>. As this dealer had built an on-book group plan arrangements account offering and demonstrated that it had taken all reasonable efforts to move its off-book group plan

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<sup>3</sup> The "CRM disclosure and reporting requirements" are the requirements to provide Retail Customers with:

- account relationship disclosure information [Dealer Member Rule 3500]
- pre-trade details of the charges they will be required to pay if they proceed with a trade [Dealer Member Rule section 29.9]
- enhanced trade confirmation compensation disclosures [Dealer Member Rule sub-clauses 200.2(l)(v)(A) and 200.2(l)(vi)(C) and clause 200.2(l)(vii)]
- enhanced account statement disclosures [Dealer Member Rule sub-clauses 200.2(d)(ii)(F) and 200.2(d)(ii)(H)]
- a quarterly "Report on client positions held outside of the Dealer Member", where off-book positions are held for the client [Dealer Member Rule subsection 200.2(e)]
- an annual account performance report [Dealer Member Rule subsection 200.2(f)]
- an annual account fee/charge report [Dealer Member Rule subsection 200.2(g)].

<sup>4</sup> Refer to IROC Rules Notice 15-0274 for discussion of the exemption orders issued in 2015 relating to the requirement to provide Retail Customers with a quarterly "Report on client positions held outside of the Dealer Member".



arrangements on-book, the Board agreed to allow the firm to retain the compensation it receives on its remaining off-book group plan arrangements. This approval was conditional on the dealer continuing to comply with the conditions set out in the 2015 exemption order it received, including that it must not:

- promote, or otherwise actively make available, the option of holding client-named positions off-book
- maintain a material number or amount of off-book client named positions.

### **2.5 Conditions relating to the exemptions approved**

As is standard for exemption orders of this type, the exemption order issued in all of the above cases specified that:

- the Board can revoke the exemption order issued at any time; and
- the exemption order is void on the date that any amendments are made to the rules that the firm is being exempted from by IIROC or the provincial securities commissions.

### **3. Questions / further information**

For questions or further information concerning this notice contact:

Richard J. Corner

Vice President and Chief Policy Advisor, Member Regulation

Telephone: 416.943.6908

E-mail: [rcorner@iiroc.ca](mailto:rcorner@iiroc.ca)