

July 24, 2019

BY EMAIL (ccorlett@iiroc.ca)

Investment Industry Regulatory Organization of Canada
Suite 2000, 121 King Street West
Toronto, ON M5H 3T9

Attention: Charles Corlett, Director of Enforcement Litigation

Dear Mr. Corlett:

Re: IIROC Notice 19-0076 Re Minor Contravention Program (“MCP”) and Early Resolution Offers (“EROs” and the notice, the “Notice”)

We applaud efforts of the Investment Industry Regulatory Organization of Canada (“IIROC”) to provide a proportionate alternative to enforcement for minor contraventions of the Dealer Member Rules (the “DMRs”) and a mechanism to reward cooperation in the early settlement of enforcement matters.

As such, we are pleased to provide the comments of Raymond James Ltd. in response to the Notice.

Comments Applicable to the MCP and EROs

We generally support the MCP and EROs as a means to address conduct that is clearly in contravention of the DMRs.

However, we are concerned that the MCP and EROs may cause Staff to conclude that there has been a rule contravention, when Staff would, in the absence of the MCP and EROs, conclude that there has not been a contravention and/or otherwise close an investigation with no action. We seek assurance that Staff will continue to be open-minded and incented to conclude that in appropriate cases there will be no enforcement steps, including an MCP resolution or an ERO. Consistent with the approach of other regulators and the stated objectives of IIROC, we encourage Staff to consider that the MCP and EROs (and certainly EROs) not require admission of a contravention. Adding this feature would increase respondent take up of the MCP and EROs, while still achieving IIROC’s goal of deterrence.

The MCP and ERO program details do not refer to costs. Please confirm that there will be no costs sought from respondents in either the MCP or ERO.

The MCP

In our view, the Program should include Investment Dealer Firms (“Dealers”). The eligibility criteria apply equally to Dealers, and they are as likely as Approved Persons to engage in conduct that is inadvertently in contravention. Respectfully, we see no principled reason to exclude Dealers.

While we understand the rationale for having only one panel member hear the approval hearing, doing so may give rise to unidimensional and imbalanced assessments. Please consider having a two-member panel hear approvals.

Raymond James Ltd.

1400 – 100 Yonge Street, Toronto, Ontario M5C 2W1

Member of Canadian Investor Protection Fund

EROs

We seek clarity regarding what is meant by “reduction of 30% on the sanctions *Staff would otherwise seek*” (*emphasis added*). It is our understanding that in negotiations to settle a proceeding, the offering party (e.g. Staff) sometimes make opening and early sanction offers that are at the highest end of an available sanction range, as determined by settlement and contested hearing precedent. Offering a 30% discount on such amounts would effectively be no discount. We suggest that IIROC add guidance stating that the 30% reductions are on the sanctions Staff would otherwise seek, based on a mid-point of relevant settlement and contested hearing precedents.

Similarly, we seek clarification of the concept of an “early” resolution especially where it is unclear whether there has been a contravention of the DMRs. In those cases, Approved Persons or the Dealer Member may require clarification of Staff’s analysis and sufficient time to conduct their own analysis and consult with counsel prior to engaging in settlement negotiations. In establishing any timelines, we also request that IIROC consider the need for foreign-owned firms to obtain approval from a parent company that may not be familiar with Canadian EROs.

Finally, we seek confirmation that the reference to “sanctions” is a reference to monetary payment and that the ERO will exclude suspensions.

We thank you for the opportunity to provide these comments and look forward to your response.

Yours Truly,

RAYMOND JAMES LTD.



Paula Amy Hewitt
SVP, General Counsel, Chief Compliance Officer &
Chief Privacy Officer
T: 416.607.3206 | E: paula.hewitt@raymondjames.ca

CC: Market Regulation, Ontario Securities Commission (marketregulation@osc.gov.on.ca)
Paul Allison, Chairman & Chief Executive Officer, Raymond James Ltd.