

IIROC NOTICE

Administrative Notice Request for Comments

IIROC By-law No. 1

Please distribute internally to:
Legal and Compliance
Senior Management

Comments due by January 4, 2021

Contact:

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20-0254

December 3, 2020

Proposed Amendment to IIROC By-law No. 1 Regarding the Definition of “Marketplace”

On November 25, 2020, the Board of Directors (**the Board**) of the Investment Industry Regulatory Organization of Canada (**IIROC**) approved for publication for comment a proposed amendment to Section 1.1 of IIROC By-law No. 1 (**the By-law**) to change the definition of “Marketplace”.

The amendment is subject to final Board, regulatory and Member approvals. IIROC intends to seek Member approval of the amendment at a special meeting in February 2021.

Description of the Proposed Amendment

The By-law currently defines a “Marketplace” as

“a recognized exchange, a recognized quotation and trade reporting system or an alternative trading system, as each is defined in National Instrument 21-101”.

IIROC proposes to amend the definition of Marketplace in the By-law to read as follows:

“Marketplace” means a marketplace or a published market as defined in securities legislation or a commodity futures exchange as defined in commodity futures legislation.



Rationale for the Proposed Amendment

The current definition of “Marketplace” in the By-law was implemented in 2008 at a time when the only types of marketplaces contemplated in Canada for which IIROC would be the Regulation Services Provider (**RSP**) were those listed (i.e. exchanges, quotation and trade reporting systems and alternative trading systems), and when it was contemplated that IIROC would be the RSP for only marketplaces governed by the securities legislation of the recognizing jurisdictions (even though IIROC was also recognized under commodity futures legislation where applicable).

National Instrument 21-101 defines a marketplace as follows:

(a) in every jurisdiction other than Ontario, means

(i) an exchange,

(ii) a quotation and trade reporting system,

(iii) a person or company not included in clause (i) or (ii) that

(A) constitutes, maintains or provides a market or facility for bringing together buyers and sellers of securities,

(B) brings together the orders for securities of multiple buyers and sellers, and

(C) uses established, non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of a trade, or

(iv) a dealer that executes a trade of an exchange-traded security outside of a marketplace, but does not include an inter-dealer bond broker, and

(b) in Ontario has the meaning set out in subsection 1(1) of the Securities Act (Ontario)

Section 1(1) of the *Securities Act* (Ontario) defines a marketplace as

any of the following, but does not include an inter-dealer bond broker:

1. An exchange.

2. A quotation and trade reporting system.

3. A person or company not included in paragraph 1 or 2 that,

i. constitutes, maintains or provides a market or facility for bringing together buyers and sellers of securities or derivatives,



ii. brings together the orders for securities or derivatives of multiple buyers and sellers, and

iii. uses established non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of a trade.

The Quebec Derivatives Act defines a published market as:

an exchange, an alternative trading system or any other derivatives market that

- (1) constitutes or maintains a system for bringing together buyers and sellers of standardized derivatives;*
- (2) brings together the orders of multiple derivatives buyers and sellers; and*
- (3) uses non-discretionary methods under which the orders interact with each other and the derivatives buyers and sellers entering the orders agree to the terms of a trade.*

The Ontario Commodity Futures Act defines a commodity futures exchange as:

an association or organization, whether incorporated or unincorporated, operated for the purpose of providing the facilities necessary for the trading of contracts

As the types of trading platforms, and IIROC's potential role as an RSP to those platforms, each evolve, it is appropriate that the By-law not constrain IIROC's future roles.

The existing definition is therefore too narrow. Instead, it should align with the applicable National Instruments, provincial legislation and IIROC's Recognition Orders to extend to any type of platform that constitutes a "marketplace" or "published market" under securities legislation and a "commodity futures exchange" under commodity futures legislation.

The proposed amendment will achieve this result.

If the proposed amendment is approved, consequential changes to the definition of "marketplace" in IIROC's Universal Market Integrity Rules will also be needed.

IIROC has been advised by its recognizing regulators that they intend to amend IIROC's Recognition Orders to address related issues.

Approval Process

The amendment is subject to final Board, regulatory and Member approvals.

IIROC staff will present a summary of the comments received to the Board before seeking final Board approval of the amendment.



Under subsection 2(a)(i) of Appendix A to IIROC's Recognition Orders, prior recognizing regulator approval is also required for any change to the By-law.

If IIROC staff receive final Board approval and CSA approval, we intend to seek Member approval of the amendment at a special meeting in February 2021.

We anticipate that the proposed amendment will be made effective on the date of Member approval.

Impact of the Proposed Amendments

IIROC has determined that the proposed amendment is reasonably necessary to conform IIROC's By-law to applicable securities legislation, statutory or legal requirements and will have no material impact on investors, issuers, members, registrants or the capital markets in any province or territory of Canada.

Request for Public Comments

We request comments on the proposed amendment. Comments on the proposed amendment should be in writing and delivered by January 4, 2021 to:

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Investment Industry Regulatory Organization of Canada
Suite 2000, 121 King Street West
Toronto, Ontario M5H 3T9
email: vpinnington@iiroc.ca

A copy should also be provided to the Recognizing Regulators by forwarding a copy to:

Market Regulation
Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto, Ontario M5H 3S8
e-mail: marketregulation@osc.gov.on.ca

Commenters should be aware that a copy of their comment letter will be made publicly available on the IIROC website at www.iiroc.ca.

Attachments

A black-line copy of the definition of "Marketplace" in Section 1.1 of IIROC By-law No. 1, reflecting the proposed amendment, is attached at Appendix A.



Appendix A

Proposed Amendment to IIROC By-law No. 1, Section 1.1

“Marketplace” means a ~~recognized exchange, a recognized quotation and trade reporting system or an alternative trading system, as each is defined in National Instrument 21-101~~ marketplace or a published market as defined in securities legislation or a commodity futures exchange as defined in commodity futures legislation.