



# bulletin



*Contact:*

For distribution to relevant parties within your  
firm

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**BULLETIN # 2618**  
September 1, 1999

## **By-laws and Regulations**

### **Amendments to Regulation 2300 and 200.1, Account Transfers**

The Board of Directors of the Investment Dealers Association of Canada has approved the attached amendments to Regulation 2300 and Regulation 200.1 to be effective September 1, 1999.

Regulation 2300 and Regulation 200.1 sets out the method to be used by members in the transfers of client accounts from one firm to another and timeframes within which such transfers are to be accomplished. The amendment mandates a shortened overall timeframe for completing an account transfer from 25 business days to 10 business days through the use of the new ATON system, the electronic system for handling the account transfers at CDS. It eliminates the transfer of paper documents between dealers and puts the onus on the receiving member for maintaining authorizations to transfer and indemnifying the delivering member for any errors which are the result of errors made by the receiving member.

A copy of the amendments are attached. Any questions on the above should be addressed to Gregory M. Clarke, Senior Vice-President, Member Regulation.

Lyn M. Gilchrist  
*Association Secretary*

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## INVESTMENT DEALERS ASSOCIATION OF CANADA

### Account Transfers

Regulation 2300 is repealed and replaced as follows:

1. Delete Association Regulation 2300 and make new Regulation 2300 as follows:

2300.1. Definitions. In this Regulation 2300 the expression:

"account transfer" means the transfer in its entirety of an account of a client with a Member to another Member at the request or with the authority of the client;

"CDS" means The Canadian Depository for Securities Limited / La Caisse Canadienne de Dépôt de Valeurs Limitée;

"delivering Member" means in respect of an account transfer the Member from which the account of the client is to be transferred;

"receiving Member" means in respect of an account transfer the Member to which the account of the client is to be transferred;

"partial account" means in respect of an account transfer, any assets and balances in the account of a client to be transferred from a delivering Member to a receiving Member which comprise less than the total assets and balances held by the delivering Member for that account;

"recognized depository" means a clearing corporation or depository which has been recognized by the Board of Directors pursuant to Regulation 2000.

2300.2. Account Transfers. Each account transfer shall be effected wherever possible through the facilities or services of a clearing organization or depository which has been recognized by the Board of Directors. The procedures to be followed for full or partial account transfers shall be as set out in this Regulation 2300.

Written communications by Members with other Members required in connection with compliance with this Regulation 2300 including, without limitation, delivery of Request for Transfer forms and Asset Listings shall be transmitted by electronic delivery through the Account Transfer Facility of CDS, unless both Members agree otherwise. Each Member shall bear its own costs in respect of the receipt or delivery of such communications. Each Member shall be responsible for the selection, implementation and maintenance of appropriate security products, tools and procedures sufficient to protect any communications sent by electronic delivery by such Member.

Each Member acknowledges that communications sent by it by electronic delivery pursuant to this Regulation 2300 will be relied on by the other Members receiving them and such Members sending a communication shall indemnify and save harmless any such other Members against and from any claims, losses, damages, liabilities or expenses suffered by such Members and arising as a result of reliance on any such communication which is unauthorized, inaccurate or incomplete.

2300.3. Authorization. Each receiving Member which receives a request from a client to accept an account shall provide the client with an Authorization to Transfer Account form in a form approved by the Director of Compliance.

On return of the Authorization to Transfer Account form to the office designated by the

receiving Member, duly executed by the client, the receiving Member shall promptly send a Request for Transfer form (as approved by the Director of Compliance) by electronic delivery through the Account Transfer Facility of CDS providing the prescribed information required by CDS. The original copy of the Authorization to Transfer Account form shall remain on file pursuant to Regulation 200.1 with the receiving Member and will be made available at any time upon request.

In addition, the receiving Member shall ensure that such forms or documents as may be required in order to transfer trusteed accounts, provincial stock savings plan accounts or other accounts which cannot be transferred without such other forms or documents are duly completed and available on the same day as the electronic delivery of the Request for Transfer form.

2300.4. Response to Request for Transfer. On electronic receipt of the Request for Transfer, the delivering Member shall either deliver electronically to the receiving Member the Asset Listing of the client account being transferred by the return date as specified, or reject the Request for Transfer if the client account information is unknown to the delivering Member, or is incomplete or incorrect. The return date shall be no later than two clearing days after the date of electronic receipt at the delivering Member.

If for any reason, an impediment exists which prevents the requested transfer of an asset for an account from the delivering Member to the receiving Member, the delivering Member shall forthwith notify the receiving Member electronically, identifying such asset(s) and the reason for the inability to deliver. The receiving Member shall obtain instructions or directions from the client and deliver them electronically to the delivering Member with regard to that asset.

Transfer of the balance of assets belonging to the client shall be completed in accordance with this Regulation 2300.

2300.5. Settlement. Within one clearing day after the return date specified on the Request for Transfer, the delivering Member shall input, or cause the Account Transfer facility at CDS to implement automatically, the set up for settlement of those assets which are to be settled through CDS. All other assets shall be delivered using the standard industry practice for such assets.

No Member shall accept transfer of an account from another Member which is not margined in accordance with regulatory requirements, unless at the time of the transfer, the receiving Member has in its possession sufficient available funds or collateral for the credit of the client to cover the deficiency in the account.

Any assets which cannot be transferred through recognized depositories shall be settled over the counter or by such other appropriate means as may be agreed between the receiving Member and the delivering Member, with the same time limits specified above for assets which can be <sup>A</sup> transferred through a depository.

2300.6. Failure to Settle. If the delivering Member fails to settle the transfer of any asset in the account of a client within 10 clearing days of the receipt of the Request for Transfer form by electronic delivery, the receiving Member may complete the account transfer by, at its option:

- (a) buying-in the unsettled position in accordance with Regulations 800.39 to 800.44:
- (b) establishing a loan of the assets from the receiving Member to the delivering Member through a recognized depository, which loan shall be marked to market and the relevant assets shall be deemed to have been delivered to the receiving Member for the purpose of settling the account transfer; or

- (c) making such other mutually agreed arrangements with the delivering Member such that the account transfer can be deemed to have been completed for the client.

2300.7. Non-Certificated Mutual Funds. Assets in an account to be transferred in the form of non-certificated mutual fund securities shall be considered transferred upon delivery by the delivering Member to the receiving Member of a duly completed Dealer to Dealer Mutual Fund Transfer form as approved by the Director of Compliance and a properly completed and endorsed power of attorney, or by entry of transfer instructions in the electronic account transfer facility of Mutual Funds Clearing and Settlement Services Inc.

2300.8. Miscellaneous Balances. Balances comprising interest or dividend receipts shall be settled promptly between a delivering Member and receiving Member and the failure to so settle such balances for any reason shall not constitute grounds for not complying with the account transfer procedures contained in this Regulation 2300.

2300.9. Capital Charges. Delivering Members shall not be subject to capital or margin charges in respect of assets which are in the process of being transferred in accordance with this Regulation 2300. The receiving Member shall be required to margin all assets or balances which are in the process of being transferred in accordance with this Regulation 2300.

2300.10. Fees and Charges. The delivering Member shall be entitled to deduct any fees or charges on accounts to be transferred prior to or at the time of transfer in accordance with that Member's current published schedule for such fees and charges.

2300.11. Exemptions. The Director of Compliance may exempt a Member from the requirements of this Regulation 2300 where he or she is satisfied to do so would not be prejudicial to the interests of the Member, its clients or the public and in granting such exemption the Director of Compliance may impose such terms and conditions, if any, as he or she may consider necessary.

2. Regulation 200.1 is repealed and replaced by adding new paragraph (n) and corresponding paragraph (n) to "Guide to Interpretation of Regulation 200.1" as follows:

200.1 "(n) a record of all communications required or made in respect of account transfers pursuant to Regulation 2300,"

Guide to Interpretation of Regulation 200.1

"(n) Account Transfers Documentation required pursuant to Regulation 2300 in respect of customer account transfers is expected to be by means of electronic communication. In order to protect Members and customers on account transfers and to ensure that such transfers are effected expeditiously, Members must ensure that copies of all communications sent or received in respect of account transfers are maintained in an accurate, secure and readily accessible format."