

*Contact:*  
Gail Van Horn  
Legal and Policy Counsel, Regulatory Policy Department  
416-943-5885

*For distribution to relevant parties within your firm*

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## **By-Laws and Regulations**

### **Policy No. 1 Relationships between Members and Financial Services Entities: Sharing of Office Premises**

The Board of Directors of the Association has approved revised Policy No. 1, to be effective May 31, 2004.

The Association currently has in place Policy No. 1 entitled Use of Branches of Affiliated and Related Financial Institutions. This Policy was based upon various Principles of Regulation enacted by the Canadian Securities Administrators (collectively, “the Principles of Regulation”).

The Principles of Regulation were repealed and replaced with National Instrument 33-102 Regulation of Certain Registrant Activities on August 1, 2001. Consequently, IDA Policy No. 1 was revised in order to mirror the new requirements in National Instrument 33-102 and remove obsolete requirements. In addition, it was determined that with the development of new business structures, in particular the sharing of office premises between Member firms and financial services entities (such as mutual fund dealers), a revised Policy No. 1 could address the issues and concerns surrounding these structures.

The revised Policy will ensure that where a Member carries on business in the same location as a financial services entity, clients are informed of the products they are purchasing, are not confused as to which entity they are dealing with and understand the relationship that a Member may have with that financial entity.

The Policy, which is applicable only to retail clients, covers disclosure of securities related activities, confidentiality of client information (in the context of office sharing), minimum standards for shared premises and tied selling.

A copy of the revised Policy No. 1 is attached.

Kenneth A. Nason  
*Association Secretary*

## **POLICY No. 1**

### **RELATIONSHIPS BETWEEN MEMBERS AND FINANCIAL SERVICES ENTITIES: SHARING OF OFFICE PREMISES**

#### *INTRODUCTION*

This Policy establishes guidelines for Members to ensure that clients are informed of the products they are purchasing and that clients understand the relationship that a Member may have with a financial services entity in circumstances where a Member carries on business in the same location as that entity. For the purposes of this Policy No. 1, a financial services entity would include an entity that is licensed or registered in another category pursuant to applicable securities legislation or subject to another Canadian regulatory regime. Financial services subject to another Canadian regulatory regime would include banking, mutual funds, insurance, deposit taking and mortgage brokerage activities.

Members should also refer to National Instrument 33-102 Regulation of Certain Registrant Activities, which came into force on August 1, 2001.

This Policy No. 1 is applicable to retail clients only.

#### **GENERAL PRINCIPLES**

1. A Member may share premises with another financial services entity, whether or not the Member is related or affiliated with that entity.
2. A Member shall ensure that clients clearly understands with which legal entity they are dealing. The client may be informed through various methods, including appropriate signage and disclosure, as set out below. Members are reminded of By-law 29.7A, which deals with the use of trade names and legal names in connection with the conduct of Member business. This By-law shall be complied with regardless of the location of the Member or its branches.
3. The provisions of this Policy apply to the Member and its branches or sub-branch offices. Such sub-branch offices shall have no more than three registered representatives. The head office or a branch office of the Member firm shall be designated as having supervisory responsibility for the sub-branch.

#### **DISCLOSURE OF SECURITIES RELATED ACTIVITIES**

1. Where a Member opens an account for a client, the Member shall deliver a written disclosure statement outlining the relationship between the Member and the financial services entity and stating that the Member is a separate entity from the financial services entity. This disclosure is only required when the client is a client of a branch where there are shared premises.
2. At the time the account is opened, the Member shall obtain an acknowledgement from the client that specifically refers to the written disclosure statement required above and confirms that the client has read the written disclosure statement.
3. The acknowledgement may be obtained in a number of ways, including requesting the client's signature or initials at a designated place or that the client place a check in a check box. It is the responsibility of the Member to draw the client's attention to the disclosure.

4. For existing clients, the Member shall provide clients with a notice that contains the disclosure required in section 1 above.

## **CONFIDENTIALITY OF CLIENT INFORMATION**

### *General*

Where a client consents to the disclosure of confidential information, the information may be shared as set out in the consent disclosure document, described in section 2 below.

### *Consent for New Clients*

1. This part does not apply to a Member subject to securities legislation in Quebec with respect to its dealings with clients in Quebec. In such circumstances, Members are advised to comply with *An Act Respecting the Protection of Personal Information in the Private Sector*, regarding the protection of personal information of their clients.
2. A Member shall hold all information about a client confidential and shall not disclose the information to representatives, employees or agents of another financial services entity located in the same premises, except as expressly permitted or required by law or the by-laws, rules, regulations or policies of the Association, unless before disclosing the information
  - (a) the Member provides at least the following information to the client to whom the information pertains:
    - (i) the name of the financial services entity to which the information will be disclosed,
    - (ii) the nature of the relationship between the Member and the financial services entity,
    - (iii) the nature of the information that will be disclosed,
    - (iv) the intended use of the information by the financial services entity, including whether that entity will disclose the information to others,
    - (v) a statement that the client has the right to revoke the consent referred to in paragraph (b), and
    - (vi) a statement that the client's consent under paragraph (b) is not required as a condition of the Member dealing with the client, except in circumstances described in section 3; and
  - (b) the client provides specific and informed consent to the specific disclosure of the client information.
3. No Member shall require a client to consent to the Member disclosing confidential information regarding the client as a condition, or on terms that would appear to a reasonable person to be a condition, of supplying a product or service, unless the disclosure of the information is reasonably necessary to provide the specific product or service that the client has requested.
4. Client consent may be obtained in a number of ways, including requesting the client's signature or initials at a designated place or that the client place a check in a check box. No Member shall use a "negative option" to obtain consent. A "negative option" would, for example, occur where a client who did not check a check-off box or initial an initial box would nonetheless be deemed to have consented.

5. Despite section 2, a Member does not need to obtain client consent to disclose confidential retail client information
  - (a) for audit, statistical or record-keeping purposes;
  - (b) to a law enforcement agency, securities regulatory authority or self-regulatory organization;
  - (c) for the collection of a debt owed by the client; or
  - (d) to a lawyer for the purposes of obtaining legal advice.
6. Dually Employed Representatives – Where registrants are dually employed such individuals shall not disclose any confidential client information to any person other than the staff of the entity with which the client is dealing or for the purpose of performing the relevant services for that client, unless the client’s consent has been obtained.

### **Consent for Existing Clients**

1. An existing client of a Member is considered to have provided consent, as required above, if the client:
  - (a) has provided consent, either positively or negatively, to the Member to disclose the confidential client information prior to the implementation of this Policy; and
  - (b) is provided with a notice that contains
    - (i) the disclosure required in section 2 above, and
    - (ii) a statement of the right of the client to withdraw his or her consent.

### **MINIMUM STANDARDS FOR SHARED PREMISES**

1. Introduction – The following minimum standards are intended as guidelines for Members. The Association acknowledges that such standards may not be practicable in certain business arrangements, such as where there are numerous dually employed representatives or the Member engages in discount brokerage operations. The guiding objective behind the standards is to ensure clients are not confused as to which entity they are dealing. Based on the organization of business arrangements, Members may need to develop policies and procedures that differ from this Policy yet still achieve the underlying objective.
2. Telephone Operations – Clients should have a clear understanding of with which entity they are dealing when they call the Member or financial services entity. A shared receptionist is permitted. Separate directory listings for each entity are recommended.
3. Client Records – Members are required to keep client records separate from the records of the financial services entity. The financial services entity shall not have access to the client records of a Member unless the provisions relating to confidentiality above are complied with. Hard copies of client files shall not be accessible to representatives, employees or agents of the financial services entity. Electronic records must have separate passwords or other similar controls to ensure they are not accessible by the financial services entity. Separate computer hardware and software is recommended.

4. Signage – The legal names under which the Member and financial services entity operate must be clearly displayed in a prominent location such as the office entrance door or reception area. A business, trade or style name under which all the entities operate may also be displayed. The names of each individual representative of the entities need not be displayed.
5. Physical Premises – The layout of the shared location must ensure confidentiality of client information. The following guidelines apply:
  - (a) Separate entrances are not necessary;
  - (b) Where necessary to minimize client confusion and ensure confidentiality of records and privacy, and if permitted by resources and infrastructure, it may be advisable for representatives, employees or agents of the Member and the financial services entity to be situated in separate areas; and
  - (c) Client files, account process areas, etc. must be effectively controlled and physically secured.
6. CIPF Logo and Brochures – The CIPF logo and brochures must be displayed in a manner that makes it clear that they are applicable only to the Member and not to the other financial services entity.
7. Supervision
  - (a) Branch Managers
    - (i) Dual Employment - In some jurisdictions it is permissible that a trading officer be dually employed with an affiliated Member and non-Member, provided that the requirements of By-law 7.1(1)(b)(iv) are satisfied. Such dually employed trading officers may be designated as a branch manager for both the Member and financial services entity. In other jurisdictions, securities legislation requires that different branch managers conduct supervision. In either situation, the branch manager may be on-site or off-site, as required by the circumstances.
    - (ii) Supervision – Branch managers are required to devote sufficient time to the supervision of the branch. In addition, Policy No. 2 details specific supervisory requirements that branch managers must undertake. Regulation 1300 details what is required for the supervision of accounts. By-law 29.27 in part requires periodic onsite reviews of branch office supervision to ensure that supervision is adequate. In addition, due to the sharing of office premises, branch managers have additional responsibilities with respect to the confidentiality of client records, the separation of files and operations, the issue of dually employed registrants, registrants not acting outside the limitations of their registration, etc.
  - (b) Adequate resources and appropriate systems – The Member must have written procedures and systems in place for the supervision of shared office premises reasonably designed to ensure that representatives adhere to the provisions contained in this Policy in order that clients are not confused as to with which entity they are dealing. The Member must have sufficient supervisory resources allocated at head office and at the shared office premises to effectively implement supervisory procedures required under this

Policy. The Member must have a program for communicating the provisions in this Policy to the representatives at the shared office premises and ensuring that the provisions are understood and implemented.

- (c) Administration Officer – An administration officer responsible for general office oversight may be shared between the Member and financial services entity. The administration officer is not required to be a registered person. Branch managers, however, are still required in order to supervise business practices and monitor compliance with Association and securities regulatory requirements.

## 8. Business Cards

- (a) Where registrants are dually licensed as an investment adviser and life insurance representative, insurance legislation differs in the provinces regarding the use of separate or double-sided business cards. It is the responsibility of the Member to ensure compliance with applicable securities and insurance legislation.
- (b) Where registrants are dually employed by a Member and a financial services entity, it is recommended that the registrant have double-sided business cards.

## 9. Permissible Non-Registrant Activities

- (a) Non-registered personnel employed by the Member or representatives of the financial services entity may not conduct certain activities. These individuals may not:
  - (i) open client accounts at the Member,
  - (ii) distribute or receive order forms for securities transactions to be conducted through the Member,
  - (iii) assist clients in completing order forms for securities transactions to be conducted through the Member,
  - (iv) provide recommendations or any advice on any activity in or for the account of the Member,
  - (v) complete know-your-client information on a New Client Application Form other than the biographical information, and
  - (vi) solicit securities transactions to be conducted through the Member.
- (b) However, these individuals are permitted to:
  - (i) advertise the services and products of the Member,
  - (ii) deliver or receive securities to or from clients,
  - (iii) contact clients to arrange appointments or give notice regarding deficiencies in completed forms,
  - (iv) provide information on the status of a client's account and provide account balances,
  - (v) provide quotes and other market information,
  - (vi) contact the public, including inviting the public to firm seminars and forwarding non-securities specific information,
  - (vii) receive completed New Client Application Forms to forward to the Member for approval, and
  - (viii) distribute New Client Application Forms, provided that

- (1) apart from specific allowances described elsewhere in this Policy No. 1, if assistance is given to a client in completing the Form, it is given by a registered person of the Member, or by the manager, assistant manager or credit officer in the branch where there is no registered person of the Member, provided that such person possesses a high degree of knowledge about the client's financial affairs, and
    - (2) before any trades are conducted on behalf of a client, the Form is approved by the designated person or branch manager in accordance with Regulation 1300.2.
  - (c) It is recommended that sales assistants and other employees be assigned to either the Member or financial services entity rather than shared between both. If warranted by the circumstances, certain individuals should sign confidentiality agreements.
10. Prohibited Registrant Activities – Registrants are permitted to offer services and products to clients but only with respect to the category of registration within which they are licensed. For example, a mutual fund salesperson is registered solely for the purpose of trading in mutual fund shares or units. The purpose of this restricted category is to allow individuals whose business focuses on a single product to access the securities market with reduced registration requirements. Consequently, mutual fund salespersons may not offer or advise their clients with respect to securities in which they are not registered to trade, nor may they communicate client orders directly or indirectly to an investment dealer salesperson. Furthermore, mutual fund salespersons are permitted to accept orders only for the accounts at the dealer with which they are registered.

#### **TIED SELLING**

1. No Member shall require a client to purchase or use any product or services, either as a condition or on terms that would appear to a reasonable person to be a condition of selling particular securities.
2. No Member shall require a client to invest in particular securities, either as a condition or on terms that would appear to a reasonable person to be a condition for supplying or continuing to supply products or services.
3. These above provisions are not intended to prohibit relationship pricing or other beneficial selling arrangements similar to relationship pricing (whereby financial incentives or advantages are offered to clients).