



INVESTMENT DEALERS
ASSOCIATION OF CANADA

bulletin



ASSOCIATION CANADIENNE DES
COURTIERS EN VALEURS MOBILIÈRES

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For distribution to relevant parties within your firm

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By-Laws and Regulations

Amendments to Regulations 100.15 and 300.2 Regarding Customer Account Guarantee Agreements

The Board of Directors of the Association has approved amendments to Regulations 100.15 and 300.2 regarding customer account guarantee agreements. The amendments are effective immediately and enclosed as Attachment #1.

The amendments are intended to ensure that the guarantor is more aware of his or her obligations under the guarantee agreement and to minimize the legal enforcement risk associated with guarantee agreements. Amendments to Regulation 100.15 will limit the circumstance to which the margin requirement for a guaranteed account or accounts can be reduced to where the guaranteed account holder has consented to providing quarterly liability information, in the form of the guaranteed account statement or statements, to the guarantor. Furthermore, amendments to Regulation 300.2 will require auditors to positively confirm specific guarantee agreements where the guarantee agreements have been relied upon to reduce significant guaranteed account margin either during the year or as at year-end.

Kenneth A. Nason
Association Secretary

**INVESTMENT DEALERS ASSOCIATION OF CANADA
REGULATIONS 100.15 AND 300.2 – CUSTOMER ACCOUNT GUARANTEE AGREEMENTS
BOARD RESOLUTION**

THE BOARD OF DIRECTORS of the Investment Dealers Association of Canada hereby makes the following amendments to the By-laws, Regulations, Forms and Policies of the Association:

1. The preamble in Regulation 100.15 is amended by adding the following text at the end of the paragraph after the words “aggregated or consolidated basis”:

“and provided the Member has received the written consent of the customer to provide the guarantor with the customer’s account statement, at least quarterly. Where the customer objects to provide such written consent, the Member shall notify the guarantor in writing of the customer’s objection.”;

2. Regulation 100.15(i) is repealed and replaced as follows:

“The guarantor shall receive from the Member, at least quarterly, the customer’s account statement or statements, in respect of the accounts to which the guarantee relates, provided the guarantor does not object in writing to receiving such information. The Member shall disclose to the guarantor in writing that the suitability of transactions in the customer’s account will not be reviewed in relation to the guarantor.”;

3. Regulation 300.2(a)(vii)(7) is amended by replacing the sentence “guarantees in cases where required to margin (protect) accounts guaranteed as at the end of the year subject to audit.” by the words “guarantees in cases where required to margin (protect) accounts guaranteed either during or as at the end of the year subject to audit.”; and
4. The notes that appear at the end of Regulation 300.2(a)(vii) are amended by adding in item (b) of the second paragraph the words “during the year or as at year-end” immediately after the words “and accounts that would require significant margin”.

PASSED AND ENACTED BY THE Board of Directors this 26th day of June 2005, to be effective on a date to be determined by Association staff.

INVESTMENT DEALERS ASSOCIATION OF CANADA
REGULATIONS 100.15 AND 300.2 – CUSTOMER ACCOUNT GUARANTEE AGREEMENTS
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Proposed revised preamble to Regulation 100.15 – Amendment #1

“The margin required in respect of the account of a customer of a Member which is guaranteed in accordance with this Regulation 100.15 may be reduced to the extent that there is excess margin in the accounts of the guarantor held by the Member calculated on an aggregated or consolidated basis and provided the Member has received the written consent of the customer to provide the guarantor with the customer’s account statement, at least quarterly. Where the customer objects to provide such written consent, the Member shall notify the guarantor in writing of the customer’s objection.”

Proposed revised Regulation 100.15(i) – Amendment #2

“The guarantor shall receive from the Member, at least quarterly, the customer’s account statement or statements, in respect of the accounts to which the guarantee relates, provided the guarantor does not object in writing to receiving such information. The Member shall disclose to the guarantor in writing that the suitability of transactions in the customer’s account will not be reviewed in relation to the guarantor.”

Proposed revised Regulation 300.2(a)(vii) – Amendments #3 and #4

“(vii) Obtain written confirmation with respect to the following:

- (1) Bank balances and other deposits including hypothecated securities;
- (2) Money, security positions and open commodity and option contracts including deposits with clearing houses and like organizations and money and security positions with mutual fund companies;
- (3) Money and securities loaned or borrowed (including subordinated loans) together with details of collateral received or pledged, if any;
- (4) Accounts of or with brokers or dealers representing regular, joint and contractual commitment positions including money and/or security positions and open commodity and option contracts;
- (5) Accounts of directors and officers or partners, including money and/or security positions and open commodity and option contracts;
- (6) Accounts of clients, employees and shareholders, including money and/or security positions and open commodity and option contracts;
- (7) Guarantees in cases where required to margin (protect) accounts guaranteed either during or as at the end of the year subject to audit;
- (8) Statements from the Member's lawyers as to the status of lawsuits and other legal matters pending which, if possible, should include an estimate of the extent of the liabilities so disclosed;

Attachment #1

- (9) All other accounts which in the opinion of the Member's Auditor should be confirmed;

Compliance with the confirmation requirements shall be deemed to have been made if positive requests for confirmation have been mailed by the Member's Auditor in an envelope bearing the Auditor's return address and second requests are similarly mailed to those not replying to the initial request. Appropriate alternative verification procedures must be used where replies to second requests have not been received.

For accounts mentioned in (4), (6) and (7) above, the Member's Auditor shall (i) select specific accounts for positive confirmation based on (a) their size (all accounts with equity exceeding a certain monetary amount, with such amount being related to the level of materiality) and (b) other characteristics such as accounts in dispute, accounts that are significantly undermargined, nominee accounts, and accounts that would require significant margin during the year or as at year-end without the existence of an effective guarantee, and (ii) select a representative sample from all other accounts of sufficient extent to provide reasonable assurance that a material error, if it exists, will be detected.

For accounts in (4), (6) and (7) above that are not confirmed positively, the Member's Auditor shall mail statements with a request that any differences be reported directly to the auditor. Clients' accounts without any balance whatsoever and those closed since the last audit date shall also be confirmed on a test basis using either positive or negative confirmation procedures, the extent to be governed by the adequacy of the system of internal control.

Where a reply to a positive confirmation request for a guarantee in (7) above has not been received, the guarantee shall not be accepted for margin purposes in respect of the account guaranteed unless and until a written form of confirmation of the guarantee has been received by the Member's Auditor (or by the Member if subsequent to the filing of the Joint Regulatory Financial Questionnaire and Report), or a new guarantee agreement is signed by the customer. If a guarantor responds to a positive or negative confirmation disputing the validity of the guarantee or the extent of the guarantee, such guarantee shall not be accepted for margin purposes until the dispute is resolved and the confirmation of the guarantee is provided in acceptable form. In addition to the confirmation procedures, the Member's Auditor should review a sample of guarantee agreements to ensure duly executed and completed agreements exist and such agreements comply with the minimum requirements of Regulation 100.15(h);”