IIROC OCRCVM
Investment Industry Regulatory Organization of Canada
Organisme canadien de réglementation du commerce des valeurs mobilières

Comments Received in Response to Rules Notice 18-0014 – Rules Notice – Request for Comments – Dealer Member Rules – Re-Publication of Proposed IIROC Dealer Member Plain Language Rule Book

On January 18, 2018, we issued Notice 18-0014 requesting comments on the Proposed IIROC Dealer Member Plain Language Rule Book (**PLR Rule Book or PLR**). IIROC received comments from the following commenters:

BMO Capital Markets
Canaccord Genuity Corp.
Canadian Foundation for Advancement of Investor Rights
Desjardins Securities Inc.
Investment Industry Association of Canada
Kenmar Associates
National Bank Financial
RBC Direct Investing Inc. and RBC Dominion Securities Inc.
Scotia Capital Inc.

Copies of these comment letters are publicly available on IIROC's website (www.iiroc.ca). We would like to thank everyone for their comments. The comments we received and our responses to them are summarized in the table below.

Summary of Comment	IIROC Response and Additional IIROC Commentary
General Comments	
One commenter notes the PLR Project has taken a considerable length of time. The commenter noted that, at this point, it expects substantive changes would be minimal and highlighted in the section "Nature of proposed amendments" in IIROC Notice 18-0014 (the **Notice**) so that stakeholders are aware of the proposed changes. For instance, the changes to order execution only accounts were not highlighted under this section in the Notice	A summary of the material changes we made in the proposed amendments was set out in section 2.2 of the Notice. We also included a comprehensive list of the proposed amendments, with descriptions, in Appendix 1 of the Notice.
	Changes related to order execution only (**OEO**) accounts were included in both subsection 2.2(iv) of the Notice and within Appendix 1.

Summary of Comment	IIROC Response and Additional IIROC Commentary
One commenter notes that the Notice does not indicate how many stakeholders provided comments in response to IIROC Notice 17-0054.	Appendix 4 of the Notice provides a comprehensive list of the stakeholders that provided comments in response to Notice 17-0054.
One commenter notes the PLR Project has introduced some new requirements and a number of substantive changes to existing Dealer Member Rules, and as such, the commenter suggests that the industry be provided with an appropriate transition period to facilitate changes to systems and processes.	We agree with this comment. To this end, section 1.2 of the Notice invited Dealer Members to discuss with us any requirements in the proposed PLR Rule Book that they anticipate may require additional time to operationalize. We considered these comments in the transition period(s) set out in the Notice of Implementation.
Series 2000	
Subsection 2502(1) – Dealer Member Directors and Executives – General requirements for Directors	
Commenters requested clarification on whether this new provision is intended to change the current practice of being able to appoint a director to the board of directors of the Dealer Member subject to regulatory approval. If regulatory approval is required prior to the appointment of the director it will require administrative changes and result in a less efficient process.	The provision is not intended to change the current practice of being able to appoint a director to the board of directors. The provision was included to capture current Dealer Member Rule 7.2 that was inadvertently omitted in the last version of the PLR Rule Book (Notice 17-0054).
Clause 2602(3)(xxvi) – Proficiency Requirements for Approved Persons and Approved Investors – Supervisors designated to be responsible for the supervision of research reports	
Some commenters are unclear why the Chartered Financial Analyst (**CFA**) or CFA charter has been codified as the primary proficiency requirements for Supervisors of Research Reports, given that they are not involved in preparing research reports or performing financial modelling functions. Commenters note the proposed proficiency requirements are	The CFA credential is consistent with the current guidelines for registration as a Supervisor designated to be responsible for the supervision of research reports.

Summary of Comment	IIROC Response and Additional IIROC Commentary
significantly more onerous than the requirements for supervisory analyst in the U.S., and could place Canadian firms at a disadvantage in the global marketplace in recruiting and retaining qualified supervisory analyst.	Our view is that the content in the CFA is relevant to the role of these Supervisors
Some commenters believe the proposed proficiency requirements are not commensurate with the role and responsibilities of a supervisory analyst, which is primarily to ensure compliance with Dealer Member Rules 29.7(1) and 3400.	
Commenters note that no other supervisory role outlined in subsection 2603(3) requires all three levels of the CFA.	We set proficiencies that are appropriate for the specific function of each category of Supervisor. The CFA Charter is also a proficiency for the Supervisor designated to be responsible for the supervision of managed accounts.
Some commenters are unclear what “other appropriate qualifications” would be considered appropriate and acceptable to the District Council. Commenters request specific examples of alternative qualifications that would be acceptable to the District Council to fulfill the proficiency requirements, to eliminate uncertainty and inefficiencies for Dealer Members in the hiring and operational process.	We would support applications to District Council for approval with qualifications such as the Conduct and Practices Handbook Course (**CPH**) and the FINRA Series 16, where the individual was previously registered with FINRA in a similar capacity within three years before requesting approval, or where the individual has the CPH and Partners, Directors and Senior Officers Course. All applications are reviewed by District Council on a case-by-case basis.
Two commenters request confirmation that a supervisory analyst, registered and employed at the time the new proficiency requirements become effective, will be grandfathered into the new regime and that their status will be protected even if they transfer employment between dealer firms.	In accordance with subsection 2603(2), an individual who is registered as a Supervisor responsible for research reports as of the date the PLR Rule Book comes into effect, is not subject to any new proficiencies for that approval category.

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	An individual is not subject to any new proficiencies when transferring between Dealer Members if they are eligible for reinstatement and the transfer of employment occurs during the 90-day reinstatement period.
Commenters suggest that FINRA Series 16 and 87 be reconsidered as an alternative proficiency requirement. Although Part I of Series 16 focuses on US Rules, Canadian supervisors work closely with their Canadian compliance team to ensure compliance with Canadian regulatory requirements, and Part II of Series 16 is equivalent in scope to CFA level I.	We have re-examined FINRA Series 16 and determined, that where an individual was previously registered with FINRA in a similar capacity within three years before requesting approval, it would be an acceptable alternative proficiency. The individual must also complete the CPH, which is a conduct and ethics course unique to the IIROC platform. Other proficiencies such as FINRA Series 86/87 and 24, or annual attestations to the CFA Code of Ethics and Standards, may be appropriate qualifications acceptable to the applicable District Council. This is reviewed on a case-by-case basis.
Commenters note several other supervisory roles permit examinations administered by FINRA as acceptable qualifications, for example, supervisors of option accounts and supervisors of futures accounts permit FINRA Series 3 and 7 as acceptable courses.	
Some commenters noted that the Canadian Securities Institute (**CSI**) currently does not offer a separate course for supervisors of research reports. Until such time as a specific course is designed, commenters suggest using a combination of CFA level I, FINRA Series 16, or FINRA Series 87 and 24, and the PDO, CPH, IASC or annual attestation to the CFA Code of Ethics and Standards, as appropriate requirements.	
Subsection 2629(3) – Exemptions from Proficiency Requirements - Transition of Registered Representatives (with a business type of portfolio management) into the new registration regime [*previously subsection 2607(3)*]	
Commenters believe a fee cap is required to avoid any potential for an excessive penalty for late filing. For instance, in the event where substantive requirements of the section have been fulfilled by the Dealer Member and the individual but the filing was inadvertently missed, it may result in a significant fee penalty disproportionate to the regulatory failure. Commenters recommend a fee cap of $2500 for a late filing.	Dealer Members are subject to a late filing fee of $100 per business day up to a maximum of $2,000 for not filing a Form F2 submission via the National Registration Database within the timeline prescribed by subsection 2629(2). We plan to provide guidance on this matter.

Summary of Comment	IIROC Response and Additional IIROC Commentary
Series 3000	
General Comments	
Commenters expressed support for the revisions to subsection 3404(1) and clause 3955(1)(iii), which clarify that OEO firms are exempt from the suitability requirements (i.e. trading and non-trading related triggering events).	Thank you for your comments.
One commenter appreciates the exemptions granted to OEO firms and carrying brokers from the account appropriateness requirement in section 3211.	
In relation to recent proposed changes to subsection 3214(2), clause 3217(2)(i) [Leverage risk disclosure statement] and clause 3402(1)(iii) [Retail client suitability requirements], some commenters requested a one-year transition period (from the date of the finalization of the rule) since these rule changes will require internal systems and process changes.	Thank you for your comment.
Section 3202 – Identification and verification requirements – Identifying all new clients	
One commenter notes that in Notice 17-0054, subsection 3202(2) requires Dealer Members to complete an account application for "each new account", whereas Dealer Member Rule 2500 II (A.1) requires an account application for "each new customer". The commenter suggests subsection 3202(2) be revised to state "each new client", rather than "each new account", to align with the current requirement and Guidance Note 12-0109.	We agree with this comment. We published a proposed amendment to this provision as part of Notice 18-0079 which will be incorporated into the PLR Rule Book after the changes are approved.
Section 3211 – Requirements for Client Accounts – Account appropriateness	
Commenters request additional guidance on the extent of the appropriateness obligation and expectations regarding documentation of account appropriateness. Since the proposed rule is not an identical codification of current guidance there is some uncertainty surrounding its application, and the documentation requirements to evidence compliance may be different now that account appropriateness is in the form of a rule.	We will consider whether guidance on account appropriateness is necessary as part of our ongoing review and consultations with the CSA on client focused reforms. With respect to maintaining records, we expect Dealer Members to keep all records and evidence of its compliance with IIROC requirements as required under subsection 1405(2). As such, we expect Dealer Members to maintain documentary evidence to demonstrate compliance with the account appropriateness obligation as it would for any

Summary of Comment	IIROC Response and Additional IIROC Commentary
	other IIROC requirement.
Commenters recommend that OEO firms be exempt from both clauses 3211(1)(i) and (ii) since these firms are not subject to the suitability obligations.	We do not agree with this comment. Please refer to section 2.2 of Notice 18-0076 for a discussion on the applicability of section 3211 to OEO firms.
With respect to clause 3211(3)(ii), commenters believe it is unnecessary to subject portfolio managers to the account appropriateness requirement since they have a fiduciary obligation to the client.	We do not believe that a portfolio manager having a fiduciary duty negates the necessity of engaging in account appropriateness prior to opening an account.
Commenters suggest this provision only apply to new accounts and that existing accounts be grandfathered.	We agree with this comment. We do not intend to apply the account appropriateness requirement (within PLR) retroactively
One commenter suggests a minimum one year transition period (from the date the rules comes into force) for new accounts and a three year transition period for existing accounts, to facilitate internal process changes.	Thank you for your comment. We have considered these comments in the transition period(s) set out in the Notice of Implementation.
Section 3211 – Requirements for Client Accounts – Account appropriateness Section 3241 – Order execution only accounts services	
Two commenters believe consultation on the proposed rule change and associated OEO Guidance should be deferred until after consultations are completed on CSA consultation paper 81-408 and the OSC Seniors Strategy. The commenters note, that rational for payment of a trailing commission is premised on, in theory, the intermediary providing ongoing investment advice to the client. Since OEO firms do not provide recommendations or advice, there is no justification for a trailing commission, and OEO firms should not be	Please refer to CSA Staff Notice 81-330 and IIROC Notice 18-0158 for the latest discussions relating to embedded commissions.

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permitted to sell products that include an embedded trailing commission.	
One commenter notes, that by absolving OEO firms from the obligation to determine " that the products and account types offered by the OEO firm in the OEO account are appropriate for the client", it may further exasperate the issue of investors unknowingly purchasing a series of funds that includes fees (i.e embedded trailing commissions) relating to services not available through the OEO firm. In addition, commenters are concerned the proposed changes may inadvertently imply that OEO firms are also discharged from the obligation to detect unusual trading activity in a person's OEO account that could be result of elder financial abuse, financial exploitation, undue influence or diminished mental capacity.	The OEO model is a self-directed suitability exempt platform that provides clients access to an on-line trading platform to trade securities, on their own, without the benefit of receiving any recommendations or suitability assessment from the OEO firm. Please refer to our recently published guidance on order execution only services and activities (Notice 18-0076) for further information.
Section 3212 – Requirements for Client Accounts – Account information	
IIROC has indicated in response to a question on relationship disclosure (Appendix 4 of the Notice) that it expects firms to keep a confirmation of delivery of the relationship disclosure document. Commenters note section 3212 does not specify that a Dealer Member is required to maintain a record of evidence of delivery of client account information. If it is a new requirement, this represents a significant change to current practice and requires a two-year transition period.	We do not consider this to be a new requirement. We expect Dealer Members to maintain confirmation of delivery of the relationship disclosure document in accordance with subsection 3216(7). This is consistent with our existing requirement in DMR 3500.7.
Section 3217(1) – Requirements for Client Accounts – Leverage risk disclosure statement	
Commenters indicate that if a client's signature is best to evidence receipt of the leverage risk disclosure statement then additional guidance on electronic documents and signatures needs to be considered.	For consistency with other Dealer Member Rules we have amended the section to allow for acknowledgment of receipt either verbally or in writing. While a client's signature is preferable, it is not the only method of collecting a client's acknowledgment of receipt. Other acceptable methods of collecting a client's acknowledgement include a documented phone conversation, a tape recording of a verbal acknowledgment, or an email or letter from the client acknowledging receipt.
One commenter suggests consideration be given to allow for the recognition of alternative methods to confirm disclosure has been provided to, and received by the client, as there are instances where the client may use a telephone conversation or an email to advise the Dealer Member representative of the use of borrowed funds.	
Section 3220(4) – Requirements for Client Accounts – Record keeping	
Commenters note that while Dealer Members maintain a record of persons with trading	Dealer Members are currently required to collect

Summary of Comment	IIROC Response and Additional IIROC Commentary
authorization over an account to comply with AML requirements, there is currently no requirement to track whether those persons have trading authorization over multiple accounts.	this information under federal anti- money laundering and anti-terrorist financing regulations. However, we understand that it may require changes to existing systems or processes. As such, we plan to implement a 12-month transition period from the date of Notice of Implementation. The availability of trading authority information that Dealer Members collect will assist regulators in detecting unregistered trading and advising activity.
Commenters are unclear why Dealer Members are required to police whether a third-party has breached securities laws when these third-parties are not regulated by IIROC. The rule as drafted implies Dealer Members have additional responsibilities with respect to collection and use of this information but does not adequately explain what Dealer Members are expected to do in order to comply.	
Commenters note, the British Columbia Securities Commission had in the past issued a notice expecting registrants to inform them if a non-registrant had trading authority over several accounts, but was later rescinded presumably because it was unreasonable to impose these obligations on registrants. Commenters suggest that the proposed new requirement similarly be rescinded from the PLR Rules.	
A few commenters believe this is a significant change and a two-year transition period (from the date of the finalization of this rule) would be required to change internal systems and processes.	
Section 3402 – Suitability – Retail client suitability requirements	
One commenter notes that while it does not object to the proposed change to this section, internal systems and process changes will be required to capture the new suitability triggering event. Currently, Dealer Member Rule 1300.1(r)(i) only requires a suitability assessment when "securities are *received into* the client's account *by way of a deposit or transfer*". However, the proposed new rule would trigger a suitability assessment when "securities are *received into* or *delivered out* of the client's account".	Thank you for your comment.
Section 3503 – Sales Practices – Client Priority	
One commenter disagrees with the suggestion that there is no potential conflict between the UMIR client priority rule and proposed section 3503. The UMIR exceptions are essential and their existence should be acknowledged in the PLR Rule Book, particularly given its relevance to large integrated broker dealers with large trade flow and automated trading.	Thank you for your comment. We expect to provide additional clarity regarding the definition of non-client (or "pro") accounts and orders through a separate policy project. We will consider this comment as part of that

Summary of Comment	IIROC Response and Additional IIROC Commentary
	separate project.
Section 3505 – Sales Practices – Payment of commission fees	
Commenters believe Dealer Member Rule 900.2 only restricts fee sharing in connection with the exercise of rights, and is not intended to apply to all trades. By expanding the application of Dealer Member Rule 900.2 to all trades it will negatively impact Dealer Members. For instance, it will prevent Dealer Members from using their revenue from commissions to pay IIROC fees. Commenters suggest the rule be removed to prevent unintended consequences.	Generally, we do not agree with this comment. First, consistent with current interpretation of the Dealer Member Rules and securities laws, section 3505 is intended to apply to all trades and not merely service charges on exercise of rights. Secondly, section 3505 limits payments of fees "in connection" with payments received from a client or issuer. In other words, it prohibits inappropriate fee/commission sharing arrangements. The section does not limit payments by a Dealer from ordinary business revenue originating from payments received from clients or issuers. For example, section 3505 does not limit the ability of Dealer Members to pay IIROC fees, tax payments to CRA or other ordinary costs such as rent or capital improvements. Notwithstanding, we have revised the introductory language in section 3505 in contemplation of other acceptable payments under securities laws (e.g., referral payments) that may be made in connection with payments received from a client or issuer.
Section 3726 – Client Complaints – Retail Clients – Response to client complaints	
Two commenters note the rules on client complaints has not been updated since February 2010 and needs to reviewed and consulted on publicly in view of recent joint CSA Staff Notice 31-351 and IIROC Notice 17-0229 on *Complying with requirements regarding the Ombudsman for Banking Services and Investments*. Commenters believe public	We will consider these comments when we review the client complaint rules in the near future. In the meantime, please see our new two-part brochure available on our website

Summary of Comment	IIROC Response and Additional IIROC Commentary
consultation and review should encompass matters such as, improvements to form and content of the client complaint brochure, and whether Dealer Member reporting obligations (in section 3703) need to be expanded to require reporting when a client voluntary submits to an internal ombudsman process.	"Making a Complaint: A Guide for Investors Part 1 of 2" and "How Can I Get My Money Back: A Guide for Investors Part 2 of 2" for more information.
Section 3808(1) – Dealer Member Records and Client Communications – Client account statements	
Commenters request that transactions involving ordinary cash distributions paid on mutual funds, limited partnership and trust units also be included as exempt transactions, similar to dividend and interest payments exclusion, in sub-clause 3808(1)(ii)(b) that do not require a Dealer Member to send a client account statement.	We note that this exemption is not necessary because the term "dividend" is intended to be broadly interpreted and would include cash distributions made by mutual funds, limited partnership and trust units.
Commenters note that some modifications were made to CRM 2 related rules (as part of Notice 17-0054), and given the objective of the PLR project is to "eliminate obsolete, duplicative and unnecessary requirements", commenters submit this proposal would reduce obsolete and unnecessary requirements.	
Section 3816(2)(ix) – Dealer Member Records and Client Communications – Trade confirmations	
Commenters suggest an exemption be provided from requirement to disclose the relationship between the Dealer Member and a financial institution that sponsors a mutual fund, where the names of the Dealer Member and mutual fund are sufficiently similar to indicate they are affiliated or related. Similar to the exemption available in section 14.12(3) of NI 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**). Commenters note that some modifications were made to CRM 2 related rules (as part of Notice 17-0054), and given the objective of the PLR project is to "eliminate obsolete, duplicative and unnecessary requirements", commenters submit that this proposal would reduce obsolete and unnecessary requirements.	We agree and have made changes to this provision to align closer with NI 31-103.
Section 3909 – General Supervision Requirements – Responsibilities of the Executive	
Commenters believe the proposed rule is too vague and needs to outline what is expected of the Executive to discharge this new responsibility. Relying on future guidance to fully understand the new responsibilities would not be practical since this a material change to the rules.	As indicated in Notice 16-0052, section 3909 is intended to allow Dealer Members to appoint as many Executives as necessary to assist them in complying with IIROC requirements (this is consistent with requirements under subsection 3905(3)).

Summary of Comment	IIROC Response and Additional IIROC Commentary
	Please refer to Notice 12-0379 – *The Role of* Compliance and Supervision, which codifies the existing expectation of the role of Executives within a Dealer Member. We will consider whether providing additional guidance on the role of Executives is necessary as part of our ongoing review of guidance.
Subsections 3971(3) and (4) – Supervision of Discretionary Accounts and Managed Accounts – Supervision of Managed Accounts [*previously subsections 3970 (3) and (4)*]	
Commenters request additional guidance on the new requirements related to direct supervision of an Associate Portfolio Manager and pre-approval of advice.	The supervision contemplated by section 3971 requires, among other things, ensuring that the Associate Portfolio Manager is not providing advice and, where they do, that such advice has been pre-approved by the Portfolio Manager. Supervisors of managed accounts are responsible for supervising managed accounts for compliance with Part G of PLR Rule 3900, Part G of PLR Rule 3200 and any other applicable IIROC requirements.
Series 5000	
General Comments	
Where the PLR Rules refer to acceptable ratings agencies, commenters suggest reviewing the merits of adopting a more boarder definition similar to the CSA definition for “Designated Rating Organization”.	We introduced the definition of a designated rating organization into the Dealer Member Rules and Form 1 as part of our proposed amendments to the debt securities concentration test Notice18-0153. These changes will be incorporated into the PLR Rule

Summary of Comment	IIROC Response and Additional IIROC Commentary
	Book after the proposed changes are approved.
Clause 5130(2)(iv) – Margin Requirements – Application and Definitions - Definitions	
One commenter requests clarification on whether Real Return Bonds falls within the definition of "Canada debt securities" in clause 5130(2)(iv). If so, then presumably Bulletin C-99 would no longer be applicable, and Real Return Bonds may be used like any other "Canada debt securities" to offset debt securities. For example, Real Return Bonds would be available for offset under rules 5611, 5612, 5613, 5613(1)(i), 5614(1)(ii), 5614(3)(i) and 5614(3)(iii), in accordance with margin offsets in subsection 5610(1).	Government of Canada real return bonds fall within the definition of "Canada debt securities" in clause 5130(2)(iv). However, for margin offsets that involve Government of Canada real return bonds and Government of Canada plain vanilla bonds they must be margined in accordance with the margin requirements in Guidance Note C-99 (Government of Canada - Real Return Bonds) because of the unique risks inherent in these margin offsets.
Section 5222 – Corporate Debt Securities – Bank paper not in default	
One commenter recommends that financial institutions (such as, Caisse populaire Desjardins and Credit Central Union) that issue bank paper (deposit certificates, promissory notes and debentures) also be included within section 5222 table, and suggests changing the section heading to "Acceptable Financial Institution paper" instead of "Bank paper".	We will consider this request as a separate project.
Subsection 5614(2) – Margin Requirements for Offset Strategies involving Debt and Equity Securities and related instruments – Government debt securities of different issuers with same maturity band Subsection 5618(2) – Margin Requirements for Offset Strategies involving Debt and Equity Securities and related instruments – Other offsets involving government debt securities and Government of Canada notional bond futures contracts	
For Municipal debt securities, commenters believe it is more appropriate to reference the long- term issuer rating and suggest the provision be changed to: "Canadian Municipal debt securities with a current long-term issuer rating equivalent to a single "A" or higher by a Designated Rating Organization".	We agree that the rating should apply to the issuer rather than to the Canadian Municipal debt security. We have proposed amendments to these provisions as part of

Summary of Comment	IIROC Response and Additional IIROC Commentary
	Appendix D to Notice 18-0153. These changes will be incorporated into the PLR Rule Book after the proposed changes are approved.

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Attachment A

Comments Received in Response to Rules Notice 17-0054 – Rules Notice – Request for Comments – Dealer Member Rules – Re-Publication of Proposed IIROC Dealer Member Plain Language Rule Book

On March 9, 2017, we issued Notice 17-0054 requesting comments on the Proposed IIROC Dealer Member Plain Language Rule Book (the **March 2017 Publication**). IIROC responded to the comments we received on the March 2017 Publication in Notice 18-0014. We are now revising our response to one comment as follows:

Summary of Comment	IIROC Response and Additional IIROC Commentary
Section 1404 – Policies and procedures	
One commenter suggests that policies and procedures should be "designed to" comply with IIROC requirements similar to section 3904, instead of "must be sufficient to" comply with IIROC requirements, because there may be instances of non-compliance.	**Original Response**: We agree with the comment and have replaced the word "sufficient" with "designed".
	Revised Response: Upon further reflection and consultation, we decided to amend section 1404 for greater consistency with section 11.1 NI 31-103. We also amended other sections relating to policies and procedures for consistent language use throughout the PLR Rule Book.