

Appendix B – Clean copy of the Proposed Amendments to the Dealer Member Rules

DEALER MEMBER RULE 3200

MINIMUM REQUIREMENTS FOR DEALER MEMBERS SEEKING APPROVAL UNDER RULE 1300.1(T) TO OFFER AN ORDER-EXECUTION ONLY SERVICE

The following Rule sets forth the documentary, procedural and systems requirements for Dealer Members to receive approval to accept orders from a customer without a suitability determination where no recommendation was provided by the Dealer Member.

In this Rule, “order-execution only service” means the acceptance and execution of orders from customers for trades that the Dealer Member has not recommended and for which the Dealer Member takes no responsibility as to the appropriateness or suitability of orders accepted or account positions held.

In this Rule “automated order system” has the same meaning as defined in National Instrument 23-103 Electronic Trading and Direct Electronic Access to Marketplaces.

In this Rule “adviser” means a person that is not an individual and, is registered or is exempted from registration, as an adviser in accordance with applicable securities legislation.

In this Rule, “foreign adviser equivalent” means a person that is not an individual and is in the business of trading securities in a foreign jurisdiction in a manner analogous to an adviser.

In this Rule, “bundled order” has the same meaning as set out in the Universal Market Integrity Rules.

In this Rule, “Legal Entity Identifier” means a unique identification code assigned to a person in accordance with standards set by the Global Legal Entity Identifier System.

In this Rule, "Global Legal Entity Identifier System" has the same meaning as set out in the Universal Market Integrity Rules.

In this Rule, "Legal Entity Identifier System Regulatory Oversight Committee" has the same meaning as set out in the Universal Market Integrity Rules.

In this Rule, “multiple client order” has the same meaning as set out in the Universal Market Integrity Rules.

In this Rule, “Participant” has the same meaning as set out in the Universal Market Integrity Rules.

A. Minimum requirements for Dealer Members offering solely an order-execution only service, either as the Dealer Member’s only business or through a separate business unit of the Dealer Member

1. Business Structure and Compensation

(a) The Dealer Member must operate either as a legal entity or a separate business unit which provides order-execution only services.

(b) The legal entity or separate business unit of the Dealer Member offering an order execution only service must not allow its order execution only service clients to:

(i) use their own automated order system to generate orders to be sent to the Dealer Member or send orders to the Dealer Member on a pre-determined basis; or

(ii) manually send orders or generate orders to the Dealer Member that exceed the threshold on the number of orders as set by the Corporation from time to time.

(c) If operated as a separate business unit of the Dealer Member, the order-execution only service must have separate letterhead, accounts, registered representatives and investment representatives and account documentation.

(d) The registered representatives and investment representatives of the Dealer Member or separate business unit of the Dealer Member shall not be compensated on the basis of transactional revenues.

1.1 Prohibited Clients

(1) The Dealer Member may not provide an order-execution only service to any person that is not an individual and is acting as and, registered or exempted from registration, as a dealer in accordance with securities laws, and trades on a Marketplace for which the Corporation is the regulation services provider.”

(2) Despite subsection (1), a Dealer Member may provide an order-execution only service to a person that is exempted from registration as a dealer under section 8.4 of National Instrument 31-103.

2. Written Policies and Procedures

(a) The Dealer Member or separate business unit of the Dealer Member must have written policies and procedures covering all of the matters outlined in this Rule.

(b) The Dealer Member or separate business unit of the Dealer Member must have a program for communicating those policies and procedures to all its registered representatives and investment representatives and ensuring that the policies and procedures are understood and implemented.

3. Account Opening

(a) At the time an account is opened, the Dealer Member or separate business unit of the Dealer Member must make a written disclosure to the customer advising that the Dealer Member or separate business unit of the Dealer Member will not provide any recommendations to the customer and will not be responsible for making a suitability determination of trades when accepting orders from the customer. Such disclosure shall clearly explain to the customer that the customer alone is responsible for his or her own investment decisions and that the Dealer Member will not consider the customer’s financial situation, investment knowledge, investment objectives and risk tolerance when accepting orders from the customer.

(b) At the time an account is opened, the Dealer Member or separate business unit of the Dealer Member must obtain an acknowledgement from the customer that the customer has received and understood the disclosure described in Paragraph 3(a).

For accounts such as joint and investment club accounts having more than one direct beneficial owner, the Dealer Member must obtain an acknowledgement from all beneficial owners.

(c) Prior to operating any existing accounts under the approval, the Dealer Member or separate business unit of the Dealer Member must provide the disclosure described in Paragraph 3(a) to the customer and obtain the acknowledgement described in Paragraph 3(b).

(d) The acknowledgements obtained under Paragraphs 3(b) and (c) must take the form of a positive act by the customer(s), a record of which must be maintained by the Dealer Member in an accessible form. Possible forms of the acknowledgement are:

- (i) The customer's signature or initials on a new customer application form or similar document where the signature or initial specifically relates to the required disclosure and acknowledgement;
- (ii) The clicking of an appropriately labeled button on an electronic account application form, placed directly under the disclosure and acknowledgement text;
- (iii) The tape recording of a verbal acknowledgement made by telephone.

4. Supervision

(a) The Dealer Member or separate business unit of the Dealer Member must have written procedures for the supervision of trading reasonably designed to ensure that customers are not provided with recommendations as a result of the customer having an account with the separate business unit of the Dealer Member and with another separate business unit of the Dealer Member or with the Dealer Member itself.

(b) The Dealer Member or separate business unit of the Dealer Member must have written procedures and systems in place to review customer trading and accounts for those concerns listed in Rule 2500 other than those related solely to suitability.

(c) The Dealer Member or separate business unit of the Dealer Member must ensure that its written policies and procedures and systems of supervision and control to review client trading takes into account the risks associated with the method of order entry and the absence of intermediation by staff of the Dealer Member.

(d) The Dealer Member or separate business unit of the Dealer Member must maintain an audit trail of supervisory reviews as required in Rule 2500.

(e) The Dealer Member or separate business unit of the Dealer Member must have sufficient supervisory resources allocated at head office and branch levels to effectively implement the supervisory procedures required under this Rule.

5. Identification of Certain Clients

(a) The Dealer Member must ensure that a client identifier is assigned to each order-execution only service client that trades on a Marketplace for which the Corporation is the regulation services provider whose trading activity on Marketplaces for which the Corporation is the regulation services provider exceeds a daily average of 500 orders per trading day in any calendar month.

(b) The client identifier required in Rule A.5(a), Rule A.5.1(a)(i) and Rule A.5.1(b)(i) must be in the form of:

- (i) a Legal Entity Identifier for a client that is eligible to receive a Legal Entity Identifier under the standards set by the Global Legal Entity Identifier System
- (ii) an account number for all other client orders not included under Rule A.5(b)(i).

(c) If an account number is used as the client identifier under Rule A.5(b)(ii), the Dealer Member must provide the account number and the name of the corresponding client to the Corporation.

(d) For an order-execution only service client that is not referred to under Rule A.5(a), Rule A.5.1(a)(i), and Rule A.5.1(b)(i), the Dealer Member must use an account number as the client identifier.

(e) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider contains:

(i) the Legal Entity Identifier of the Dealer Member if it is a non-executing Dealer Member that is not a Participant,

and

(ii) a designation to indicate the order is for an order-execution only account.

(f) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider contains either:

(i) the client identifier required under Rule A.5(b) or Rule A.5(d),

or

(ii) a designation to indicate the order is a bundled order or a multiple client order.

5.1 Identification of Advisers and Foreign Adviser Equivalents

(a) The Dealer Member must ensure that a unique identifier is assigned to any adviser that trades on a Marketplace for which the Corporation is the regulation services provider and:

(i) is itself a client of the Dealer Member, or

(ii) has been granted trading authority, direction or control over an account of a client of the Dealer Member.

(b) The Dealer Member must ensure that a unique identifier is assigned to any foreign adviser equivalent that trades on a Marketplace for which the Corporation is the regulation services provider and:

(i) is itself a client of the Dealer Member, or

(ii) has been granted trading authority, direction or control over an account of a client of the Dealer Member.

(c) The Dealer Member must provide each unique identifier assigned pursuant to subsections A.5.1(a) and (b) and the name of the corresponding firm to the Corporation.

(d) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider by or on behalf of a firm for whom a unique identifier must be assigned pursuant to subparagraphs A.5.1 (a)(i) and (b)(i), contains the identifier assigned to that firm.

(e) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider by or on behalf of an account over which an adviser or a foreign adviser equivalent has been granted trading authority, direction or control and an identifier was assigned pursuant to subparagraphs A.5.1(a)(ii) or A.5.1(b)(ii), contains the identifier assigned to that firm.

(f) Despite subsection A.5(c):

(i) If an adviser is assigned a unique identifier pursuant to subparagraph A.5.1 (a)(ii), each order entered by or on behalf of an account over which that adviser has been granted trading authority, direction or control on a Marketplace for which the Corporation is the regulation services provider must contain the unique identifier assigned to that adviser, or

(ii) If a foreign adviser equivalent is assigned a unique identifier pursuant to subparagraph A.5.1(b)(ii), each order entered by or on behalf of an account over which that foreign adviser equivalent has been granted trading authority, direction or control on a Marketplace for which the Corporation is the regulation services provider must contain the unique identifier assigned to that foreign adviser equivalent.”

6. Systems and Books and Records

(a) The order-entry systems and records of the Dealer Member or separate business unit of the Dealer Member must be capable of labeling all account documentation relating to customers, including monthly statements and confirmations, as “orderexecution only accounts” or some variant thereof.

(b) The monthly statements of a separate business unit of a Dealer Member shall not be consolidated with the account statements of any other business unit of the Dealer Member or of the Dealer Member itself.

B. Minimum requirements for Dealer Members offering both an advisory and an orderexecution only service

1. Terminology

All references to the basis of trades in procedures, documents and reports under this Rule must use the terms “recommended” or “non-recommended”. In particular, designating trades as solicited or unsolicited will not be accepted as complying with the requirements of this Rule.

2. Business Structure

The Dealer Member offering both an advisory and an order execution only service must not allow its order execution only service clients to:

(a) Use their own automated order system to generate orders to be sent to the Dealer Member or send orders to the Dealer Member on a pre-determined basis; or

(b) Manually send orders or generate orders to the Dealer Member that exceed the threshold on the number of orders as set by the Corporation from time to time.

2.3 Prohibited Clients

(1) The Dealer Member may not provide an order-execution only service to any person that is not an individual and is acting as and, registered or exempted from registration, as a dealer in accordance with securities laws, and trades on a Marketplace for which the Corporation is the regulation services provider.

(2) Despite subsection (1), a Dealer Member may provide an order-execution only service to a person that is exempted from registration as a dealer under section 8.4 of National Instrument 31-103.

3. Written Policies and Procedures

(a) The Dealer Member must have written policies and procedures covering all of the matters outlined in this Rule.

(b) The Dealer Member must have a program for communicating those policies and procedures to all its registered representatives and ensuring that the policies and procedures are understood and implemented.

4. Account Opening

(a) At the time an account is opened, the Dealer Member must make a written disclosure to the customer advising that the Dealer Member will not be responsible for making a suitability determination when accepting an order from the customer which was not recommended by the Dealer Member or a representative of the Dealer Member. Such disclosure shall clearly explain to the customer that the customer alone is responsible for his or her own investment decisions and that the Dealer Member will not consider the customer's financial situation, investment knowledge, investment objectives and risk tolerance when accepting orders from the customer. Such disclosure also shall include a brief description of what does or does not constitute a recommendation and instructions on how the customer can report trades which have not been accurately designated as recommended or nonrecommended.

(b) At the time an account is opened, the Dealer Member must obtain an acknowledgement from the customer that the customer has received and understood the disclosure described in Paragraph 4(a). For accounts such as joint and investment club accounts having more than one direct beneficial owner, the Dealer Member must obtain an acknowledgement from all beneficial owners.

(c) Prior to operating any existing accounts under the approval, the Dealer Member must provide the disclosure described in Paragraph 4(a) to the customer and obtain the acknowledgement described in Paragraph 4(b).

(d) The acknowledgements obtained under Paragraphs 4(b) and (c) must take the form of a positive act by the customer(s), a record of which must be maintained by the Dealer Member in an accessible form. Possible forms of the acknowledgement are:

- ii) The customer's signature or initials on a new customer application form or similar document where the signature or initial specifically relates to the required disclosure and acknowledgement;
- iii) The clicking of an appropriately labeled button on an electronic account application form, placed directly under the disclosure and acknowledgement text;
- iv) The tape recording of a verbal acknowledgement made by telephone.

5. Supervision

- (a) The Dealer Member must have written procedures for the supervision of trading reasonably designed to ensure that orders are marked accurately as recommended or non-recommended.
- (b) The Dealer Member must have written procedures for the selection of accounts to be subject to a monthly review at least equal to those currently required by Rule 2500. The selection must not have regard to whether the trades in the account are marked as recommended or non-recommended. The account review must include a determination whether the overall composition of the customer's portfolio no longer conforms to the documented objectives and risk tolerance of the customer as a result of non-recommended trades and, when it does not, the procedures must specify the steps to be taken for dealing with the disparity.
- (c) The Dealer Member must ensure that its written policies and procedures and systems of supervision and control to review trading by order-execution only service clients takes into account the risks associated with the method of order entry and the absence of intermediation by staff of the Dealer Member.
- (d) The Dealer Member must maintain an audit trail of supervisory reviews as required in Rule 2500.
- (e) The Dealer Member must have sufficient supervisory resources allocated at head office and branch levels to effectively implement the supervisory procedures required under this Rule.

6. Identification of Certain Clients

- (a) The Dealer Member must ensure that a client identifier is assigned to each order-execution only service client that trades on a Marketplace for which the Corporation is the regulation services provider whose trading activity on Marketplaces for which the Corporation is the regulation services provider exceeds a daily average of 500 orders per trading day in any calendar month.
- (b) The client identifier required in Rule B.6(a), Rule B.6.1(a)(i) and Rule B.6.1(b)(i) must be in the form of:
 - (i) a Legal Entity Identifier for a client that is eligible to receive a Legal Entity Identifier under the standards set by the Global Legal Entity Identifier System
 - (ii) an account number for all other client orders not included under Rule AB.6(b)(i).
- (c) If an account number is used as the client identifier under Rule B.6(b)(ii), the Dealer Member must provide the account number and the name of the corresponding client to the Corporation.
- (d) For an order-execution only service client that is not referred to under Rule B.6(a), Rule B.6.1(a)(i) and Rule B.6.1(b)(i), the Dealer Member must use an account number as the client identifier.
- (e) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider contains:
 - (i) the Legal Entity Identifier of the Dealer Member if it is a non-executing Dealer Member that is not a Participant,
 - and

- (ii) a designation to indicate the order is for an order-execution only account.
- (f) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider contains either:
 - (i) the client identifier required under Rule B.6(b) or Rule B.6(d),
 - or
 - (ii) a designation to indicate the order is a bundled order or a multiple client order.

6.1 Identification of Advisers and Foreign Adviser Equivalents

- (a) The Dealer Member must ensure that a unique identifier is assigned to any adviser that trades on a Marketplace for which the Corporation is the regulation services provider and:
 - (i) is itself client of the Dealer Member, or
 - (ii) has been granted trading authority, direction or control over an account of a client of the Dealer Member.
- (b) The Dealer Member must ensure that a unique identifier is assigned to any foreign adviser equivalent that trades on a Marketplace for which the Corporation is the regulation services provider and:
 - (i) is itself a client of the Dealer Member, or
 - (ii) has been granted trading authority, direction or control over an account of a client of the Dealer Member.
- (c) The Dealer Member must provide each unique identifier assigned pursuant to subsections B.6.1(a) and (b) and the name of the corresponding firm to the Corporation.
- (d) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider by or on behalf of a firm for whom a unique identifier must be assigned pursuant to subparagraphs B.6.1 (a)(i) and (b)(i) contains the identifier assigned to that firm.
- (e) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider by or on behalf of an account over which an adviser or foreign adviser equivalent has been granted trading authority, direction or control, and an identifier was assigned pursuant to subparagraphs B.6.1(a)(ii) or B.6.1(b)(ii) contains the identifier assigned to that firm.
- (f) Despite subsection B.6(c):
 - (i) If an adviser is assigned a unique identifier pursuant to subsection B.6.1(a), each order entered by or on behalf of an account, over which that adviser has been granted trading authority, control or direction, on a Marketplace for which the Corporation is the regulation services provider, must contain the unique identifier assigned to that adviser, or

(ii) If a foreign adviser equivalent is assigned a unique identifier pursuant to subsection A.6.1(b), each order entered by or on behalf of an account, over which that foreign adviser equivalent has been granted trading authority, direction or control, on a Marketplace for which the Corporation is the regulation services provider, must contain the unique identifier assigned to that foreign adviser equivalent.”