



INVESTMENT INDUSTRY ASSOCIATION OF CANADA  
ASSOCIATION CANADIENNE DU COMMERCE DES VALEURS MOBILIÈRES

## **SUMMARY OF REVISED CLIENT RELATIONSHIP MODEL (IIROC Rules Notice 09-0120 April 24, 2009)**

IIROC has issued Rules Notice 09-0120 (the “Notice”), proposing amendments to the Client Relationship Model (CRM) project. The proposed rule changes address the CRM proposal published by the Investment Dealers Association of Canada (IDA) in February 2008.

*IIROC has asked for comments on the proposed amendments and the related draft guidance notice by JULY 24, 2009 (to be submitted to both IIROC and the OSC).*

This is a summary of key elements of the Notice as well as changes from the previous version. The summary will note where changes have been made from the previous version. The IIAC recommends that interested members review the full text of the Notice and its Attachments.

The full text of the Notice and Attachments can be accessed at:

<http://docs.iiroc.ca/DisplayDocument.aspx?DocumentID=DEC3ACCAF40F444284A47E4D9967D5F8&Language=en>

### **SUMMARY OF PROPOSED RULES**

A few changes have been made to the CRM proposal but many of the changes requested in the IIAC’s letter submitted on May 21, 2008 have not been made. Below is a summary of current requirements and where changes have been made. Some of the proposed changes help to provide consistency between the IIROC proposal and the MFDA and CSA proposals. We have pointed out where substantive differences continue to exist with the MFDA proposal. With respect to the CSA proposal, IIROC staff indicates that conforming amendments to the CSA proposal will be introduced at a later date once the IIROC and MFDA proposals are finalized.

#### ***1. Relationship Disclosure Document***

IIROC is proposing that every dealer will provide its retail clients (existing and new) with the following information regarding the relationship they are entering into with the client:

- a description of the types of products and services offered by the dealer;
- a description of the account relationship to which the client has consented;
- where applicable, a description of the process used by the dealer to assess investment suitability, including a description of the process used to assess the client’s “know your client” information, a statement as to when account suitability will be reviewed and an indication whether or not the dealer will review suitability in other situations, including market fluctuations (**slight change in language regarding ongoing suitability**);

- a statement indicating dealer and adviser conflicts of interest and stating that future conflicts of interest situations, where not addressed, will be disclosed to the client as they arise (**slight change in language to “address” conflicts rather than “resolve”**);
- a description of all fees, charges and costs associated with operating the account and in making or holding investments in the account; and
- a description of account reporting the client will receive, including a statement identifying when account statements and trade confirmations will be sent to the client and a description of the dealers obligations to provide account performance information and a statement indicating whether or not percentage return information will be sent.

IIROC will not mandate the format of the disclosure but will continue to require that the information be provided to clients in writing at the time the account is opened, written in plain language and included in a document entitled “Relationship Disclosure”.

A change from the previous version is that the proposed rules now allow for certain information already provided to clients to essentially be incorporated by reference as long as the relationship disclosure contains a description of this information and the client is specifically referred to the other documents. IIROC states that this provision is to provide greater flexibility to dealers. The requirement under the MFDA proposal is not consistent with the IIROC approach and allows for disclosures to be disseminated in a variety of documents.

Another change from the previous version is that the obligations of the clients are removed from the Relationship Disclosure Document. The draft Guidance Note states that “beyond the required content set out in Rule XX00, the Dealer Member may also elect to include additional information in the relationship disclosure... some Dealer Members currently recommend steps to be taken by their clients to maintain a successful relationship.”

No change has been made to the client acknowledgment section and, as such, dealers must maintain an audit trail to evidence the information has been provided to clients by way of client signature or by some other method.

## ***2. Conflicts Management / Disclosure***

Changes have been made with respect to the issue of conflicts of interest and IIROC is proposing to adopt a general rule to require that where conflicts cannot be avoided, all such conflicts must be disclosed and addressed in a manner that is consistent with the best interests of the client. The Notice states that dealers must “address” rather than “resolve” conflicts and that dealers must avoid conflicts only if the conflict cannot be addressed in the client’s best interest. Previously, the proposed requirement set out that all conflicts be avoided if possible. In addition, rather requiring dealers to be aware of possible conflicts, the proposed rule now requires dealers to use reasonable efforts to identify potential conflicts of interest.

The draft Guidance Note also provides further guidance, including allowing for informed consent to satisfy the disclosure of conflicts in certain circumstances.

## ***3. Suitability***

Under the Notice a requirement exists to provide a description of the process used by the dealer to assess investment suitability, including:

- a description of the approach used by the dealer to assess the client’s financial situation, investment objectives, risk tolerance and investment knowledge and a statement that the

client will be provided with a copy of the “know your client” information that is obtained from the client and documented at time of account opening and when there are material changes to the information;

- a statement indicating that the dealer will assess the suitability of investments in the client’s account whenever:
  - (A.) a trade is accepted,
  - (B.) a recommendation is made,
  - (C.) securities are transferred or deposited into the account,
  - (D.) there is a change in the registered representative, investment representative or portfolio manager responsible for the account, or
  - (E.) there is a material change to the client’s know-your client information.

One change to the current proposal is that the voluntary ongoing suitability review now contains a provision that dealers should state whether or not the review will occur in the case of other trigger events, in particular, “the event of significant market fluctuations.” (This is not a requirement under the MFDA proposal)

IIROC staff did state that they revised the proposed rule to make it clear that dealers need not “ensure” that positions transferred in are suitable for the client, but the IIAC believes that the proposed drafting change does not provide the necessary clarity.

The draft Guidance Note provides further information on the suitability requirements, including a discussion of the timeliness of the reviews and the materiality of changes in client information that would or would not trigger a suitability review. The Note also states that IIROC staff, as part of a separate project, are examining the possibility of introducing further changes to the suitability rule and are also in the process of drafting guidance to dealers on regulatory expectations for meeting their suitability requirements.

#### ***4. Performance Reporting***

##### ***(i) Security Position Cost Disclosure***

No changes have been made to security position cost disclosure from the previous version of the proposal. IIROC is proposing to mandate that security position cost information be provided to all retail clients at least annually. When the proposed rules were published for comment in February, 2008, input was requested as to the preference to require the disclosure of either original cost or tax cost. No clear consensus was reached but IIROC indicates in the Notice that original cost provides the most useful information for the purpose of account performance and have mandated in the proposed amendments that original cost be disclosed.

The MFDA proposal does not require individual position cost disclosure.

##### ***(ii) Account Activity Disclosure***

The Notice states that activity reporting has been simplified from the previous version so that dealers will be required only to disclose the cumulative realized and unrealized income and capital gains/losses on the customer’s account at least annually.

The activity reporting requirements in the IIROC and MFDA proposals are similar in most respects. However, the MFDA proposes to mandate account activity disclosure for the current year only, while the IIROC proposal will require cumulative activity reporting.

**(iii) Account Percentage Return Disclosure**

As stated in the previous version, IIROC is not proposing to mandate the account percentage return information; however, to provide dealers with greater flexibility, the rule has been amended to allow for percentage rates of return, if provided, to be calculated by any method acceptable to IIROC. The previous version would have required a mandated form of disclosure if this information was provided to clients.

The requirement to disclose returns, if reported, on a 1, 3, 5 and 10 year basis has been maintained. This is not required in the MFDA proposal.

The draft Guidance Note provides some discussion on performance reporting, including when cost information for securities cannot be reported or may be subject to adjustments.

As the IIAC raised in our comment letter, IIROC has stated in its response to comments that issues relating to reporting of client name positions on customer statements will be addressed as a transition issue and they will be working with CIPF on the disclosures related to CIPF covered holdings.

***5. Additional Comments***

IIROC has issued a draft Guidance Note to clarify staff expectations and answer questions on the application of the proposed rules and amendments. IIROC has requested comments on the Guidance Note.

IIROC has also indicated that they will provide transition periods to allow dealers sufficient time in the development and implementation of the systems necessary to comply with new requirements. For instance, they propose a three-year transition period for distributing the disclosure document to existing clients.

IIROC has also specifically requested comments on whether dealers would like to see a simple disclosure template provided with the Guidance Note.