

# IIROC NOTICE

**Rules Notice**  
**Request for Comments**  
Dealer Member Rules

*Please distribute internally to:*  
Institutional  
Legal and Compliance  
Operations  
Senior Management  
Retail

**Comments Due By: March 5, 2018**

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**18-0014**  
**January 18, 2018**

## **Re-publication of Proposed IIROC Dealer Member Plain Language Rule Book**

### **Executive Summary**

IIROC has undertaken a project to rewrite, reformat, rationalize, and reorganize our Dealer Member Rules (**DMRs**) in plain language (the **PLR Project**).

We initially drafted and published for comment the PLR Project in a number of discrete tranches (the **original publications**). We compiled the separately published tranches to create the proposed IIROC Dealer Member Plain Language Rule Book (the **proposed PLR Rule Book**) which we published for comment in March 2016 ([Notice 16-0052](#)) (the **March 2016 publication**) and in March 2017 ([Notice 17-0054](#)) (the **March 2017 publication**).

In this Notice, we are republishing only those sections of the proposed PLR Rule Book (the **current publication**) with material changes made in response to comments we received on the March 2017 publication from the public, the Canadian Securities Administrators (**CSA**), other interested stakeholders, and from our continuing work on the PLR Project. This means that, unlike the March



2016 and March 2017 publications, we are not republishing the entire proposed PLR Rule Book. The comment period is 45 days.

### **How to Submit Comments**

Please make your comments in writing and deliver them by March 5, 2018 to:

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***Commentators should be aware that a copy of their comment letter will be made publicly available on the IIROC website at [www.iiroc.ca](http://www.iiroc.ca).***



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## 1. Current publication

### 1.1 *PLR Project publication process*

We initially published the proposed PLR Rule Book for comment in a number of discrete tranches between 2010 and 2014. We then compiled the original published tranches to create the proposed PLR Rule Book and published it for comment in March 2016 (see [Notice 16-0052](#)) and again in March 2017 (see [Notice 17-0054](#)). The March 2017 publication included the Consolidated Enforcement, Examination and Approval Rules<sup>1</sup> to illustrate how the final version of the proposed PLR Rule Book will look. For more background information on the PLR Project, please refer to [Notice 17-0054](#).

We have made further material changes to the proposed PLR Rule Book based on comments we received on the March 2017 publication. We are publishing only those sections with material changes from the March 2017 publication, and a few sections that warranted further publication<sup>2</sup> (the **proposed amendments**), for a 45-day comment period. We will include any non-material changes made to the March 2017 publication and to the current publication in the final version of the proposed PLR Rule Book.

If you would like to consider the proposed amendments in the context of the entire proposed PLR Rule Book, we refer you to [Appendix 2](#) of Notice [17-0054](#).

### 1.2 *Next steps*

We expect to finalize the proposed PLR Rule Book and seek final CSA approval by mid-2018. We are planning an implementation period of 6-9 months.

We invite Dealer Members to discuss with us any requirements in the proposed PLR Rule Book that they anticipate may require additional time to operationalize.

#### 1.2.1 *CSA's targeted reforms to NI 31-103*

The CSA is working on targeted reforms to the core elements of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)* (e.g. conflicts of interest, know-your-client, suitability, relationship disclosure and know-your-product).<sup>3</sup> Depending on the amendments to NI 31-103 resulting from the CSA's work, we may need to make amendments to our requirements to ensure they are materially harmonized with CSA requirements.

### 1.3 *Guidance*

We are reviewing our existing guidance in the context of the proposed PLR Rule Book and have organized the existing guidance as follows:

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<sup>1</sup> These rules were implemented on September 1, 2016.

<sup>2</sup> These are sections that did not necessarily have a material change but are being republished for the reasons set out in Appendix 1.

<sup>3</sup> See CSA Consultation Paper 33-404.



### **Group 1 – substantial revisions and new guidance**

- guidance that we must substantially re-write in plain language for it to be consistent with the proposed PLR Rule Book
- guidance that will replace portions of IIROC’s current DMRs once the proposed PLR Rule Book is implemented
- new guidance required for the proposed PLR Rule Book.

### **Group 2 – minor revisions**

- guidance that IIROC staff must make minor content adjustments to for it to be accurate once the proposed PLR Rule Book is implemented.

### **Group 3 – update references**

- guidance in which IIROC staff must update section references for it to be accurate once the proposed PLR Rule Book is implemented.

### **Group 4 – archive**

- guidance which is no longer relevant or current. We will move this guidance to a searchable archive page on our website.

We intend to complete our work on the guidance and issue revised or new guidance in conjunction with the implementation of the final version of the proposed PLR Rule Book.

## **2. Nature of proposed amendments**

### **2.1 Identification of proposed amendments**

We made changes to the existing DMRs in the original publications, the March 2016 publication, and the March 2017 publication<sup>4</sup> to:

- (i) eliminate unnecessary rule provisions
- (ii) clarify IIROC’s expectations with respect to certain rules
- (iii) ensure that the rules reflected actual IIROC practices
- (iv) ensure consistency with other IIROC DMRs and applicable securities laws
- (v) respond to comments we received on the publications.

In this Notice, we are publishing the material changes that we made to the March 2017 publication in response to comments from the public (see [Appendix 4](#)), the CSA, other relevant stakeholders, and as a result of our continuing work on the PLR Project<sup>5</sup>. If you are interested in seeing the changes to our

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<sup>4</sup> We refer you to the “[Proposed Policy: Active Matters](#)” tab on the IIROC website for these previous publications.

<sup>5</sup> We are also publishing a few sections that did not necessarily have a material change but that warranted further publication for the reasons set out in Appendix 1.



existing DMRs that were made in the previous publications, we refer you to the Table of Concordance in [Appendix 3](#) of Notice [17-0054](#).

## **2.2 Summary of proposed amendments**

The proposed amendments comprise changes in each Series of the proposed PLR Rule Book<sup>6</sup>. Given the extent of the PLR Project, it is not practical to discuss every proposed amendment. Rather, as has been our practice in the previous publications, set out below is a discussion of some of the key changes we made. We refer you to Appendix 1 which contains a brief discussion of all the proposed amendments.

### **(i) Registration-related changes**

Series 2000 was redrafted considerably to ensure consistency in presentation and organization. In addition, we made other changes to Series 2000 that we highlight below. Consequently, we are republishing a significant portion of Series 2000 for comment.

#### **Key changes in Series 2000 are:**

#### **Subsection 2505(1) – Chief Financial Officer, 2506(1) – Chief Compliance Officer and Subsection 2507(1) – Ultimate Designated Person**

We revised the language in each of these sections for clarification. A Dealer Member must designate a Chief Financial Officer (**CFO**), a Chief Compliance Officer (**CCO**) and an Ultimate Designated Person (**UDP**) and each person designated in these roles must also be designated as an Executive and meet the proficiency requirements for an Executive. This is consistent with our current requirements.

#### **Subsection 2506(4) – Chief Compliance Officer**

The March 2017 publication included a requirement (subsection 2506(4) in that publication) for CCOs to be full-time unless approved by the securities regulatory authority. We removed this provision on the basis that although the expectation is for CCOs to be full-time, the process and expectations can be clarified in a guidance document to compliment NI 31-103.

#### **Subsection 2507(4) – Ultimate Designated Person**

For consistency with section 11.2 of NI 31-103 and CP, we have clarified that the UDP must be designated immediately and if the firm is unable to do so, to notify IIROC promptly of its plan to designate another UDP. This is to recognize that in very rare circumstances the immediate designation may not be possible. However, in such cases, we expect firms to notify us promptly of their immediate plans.

#### **Subsection 2552(1) – Individual approval**

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<sup>6</sup> With the exception of Series 6000 which is reserved for future use.



Our current DMRs for individual approval do not cover all Approved Persons. In a previous publication of the proposed PLR Rule Book, this section was expanded to cover all Approved Persons. We are not proposing a change in this aspect of the requirement but the expansion of the scope of the requirement may not have been appreciated by readers so, out of an abundance of caution, we are republishing it for comment.

### **Sections 2554 and 2607 – Associate Portfolio Manager and Portfolio Managers**

As noted in the March 2017 publication, the Portfolio Manager (**PM**) and Associate Portfolio Managers (**APM**) categories have been re-introduced as formal categories of approval for individuals authorized to deal with managed accounts. The Approved Person definition and categories have been updated accordingly.

In addition, a new subsection 2554(1) has been added to clarify that PM and APMs can carry out the activities that Registered Representatives (RR) are permitted to carry out in accordance with IIROC requirements.

Dealer Members are provided with four months (subsection 2607(2)) to transition those currently approved as a RR (with PM activity) into the new APM or PM categories; this was previously three months as noted in the March 2017 publication.

New subsection 2607(3) has been added which allows IIROC to impose fees for failure to meet the transition timeline set out in subsection 2607(2). IIROC's Board of Directors (**Board**) has approved a fee of \$100 per business day with no maximum. The transition is mandatory and we do not expect any issues impeding firms from completing the transition; other fees such as those for Supervision Reports also do not have a cap.

### **Section 2555 – Approved Person's other activities**

DMR 18.14 applies to outside business activities and refers to Investment Representatives (**IR**) and RRs. For consistency with current expectations, as set out in IIROC Guidance Note 13-0163 and section 13.4 of NI 31-103, we expanded the scope of this requirement to all Approved Persons. And, for consistency with current expectations and NI 31-103, we expanded the scope to state that all activity cannot be contrary to securities laws or bring the securities industry into disrepute.

In addition, to harmonize with NI 31-103 and to codify existing practices, we added a new provision (subsection 2555(3)). This provision prohibits an individual from acting, and a Dealer Member from permitting an individual to act, as a RR, IR, PM, APM, or Trader in a manner that is contrary to section 4.1 of NI 31-103, unless an exemption is granted by the applicable securities regulatory authority and approved by IIROC.



(ii) **Proficiency related changes**

**Section 2602 – Extending the Conduct Practices Handbook (CPH) as a proficiency requirement**

The CPH is the cornerstone of the IIROC platform. The course is being reformulated as an ethics and conduct course unique to the IIROC platform. For consistency with other approval categories, we are introducing the CPH as a proficiency requirement for RRs and IRs dealing with retail or institutional clients in futures contracts and futures contract options. We believe Supervisors should have the same underlying proficiencies as the Approved Persons they supervise. Based on this principle, we are extending the CPH as a requirement for Supervisors of RRs or IRs dealing with clients in options and Supervisors of RRs or IRs dealing with clients in futures contracts and futures contract options.

**Section 2602 – Effective Management Seminar (EMS) as a post-licensing requirement**

We are removing the EMS as a post-licensing requirement for Supervisors of retail RRs and the corresponding proposal to add it as a post-licensing requirement for Supervisors of institutional IRs and RRs. We will work with CSI to reformulate the EMS as a CE course.

(iii) **Best Execution – Sections 3119 to 3129**

On July 6, 2017, we published Notice of Approval/Implementation [17-0137](#) Amendments Respecting Best Execution. These amendments, which amend and replace current DMR 3300, will become effective on January 2, 2018. Sections 3119 to 3129 of the proposed PLR Rule Book set out the plain language version of these amendments.

(iv) **Account appropriateness – Section 3211**

In the March 2017 publication, we proposed a new account appropriateness requirement for Dealer Members to determine, as part of their account opening process:

- (a) whether it would be appropriate for a potential client to become the Dealer Member's client, and
- (b) the scope of products and account types that would be appropriate for the potential client to have access to.

This new requirement codifies the discussion in IIROC Notice [12-0109](#) to ensure that the account type is appropriate for the client.

In response to comments received, we propose the following changes:





- (a) in subsection 3211(1), we have added language to clarify that the account appropriateness determination is conducted prior to opening an account and is not an ongoing obligation, and
- (b) in subsection 3211(2), we have confirmed that order execution only (**OEO**) firms are only subject to the requirement to determine the account is appropriate for the potential client (as required by clause 3211(1)(i)) and not the requirement to determine that the scope of products and account types that a potential client would have access to within the account are appropriate. We believe this is consistent with current practice.

We have also added in subsection 3211(3) an exemption from the account appropriateness requirement for certain Dealer Members (e.g. carrying brokers) on the basis that another registered entity is responsible for the account appropriateness determination.

### **2.3 Non-material changes**

Generally, we are not publishing for comment any changes made to the proposed PLR Rule Book that are not designed to change materially our requirements. Examples of such changes include:

- (i) spelling, grammar and other error corrections
- (ii) formatting, re-organization and renumbering of rules
- (iii) standardization of terminology
- (iv) changes of an editorial nature
- (v) re-drafting of sections to conform with, or clarify, our existing requirements
- (vi) drafting changes to ensure consistency of our plain language style.

However, in circumstances where we published a section of the proposed PLR Rule Book for comment as part of the proposed amendments, we have included non-material changes appearing in that section.

We also made changes to sections of the French version of the proposed PLR Rule Book based on CSA comments pertaining to that version only. We refer you to Appendix 1 for a description of those changes.

### **3. Alternatives considered**

Throughout the PLR Project, and in drafting the proposed amendments, we considered:

- (i) the comments we received on the various publications
- (ii) the need to proceed with certain changes (e.g. registration-reform-related changes) to ensure that the DMRs are consistent with CSA requirements
- (iii) independent policy matters that arose in the period between the original publications, the March 2016 publication, the March 2017 publication, and the current publication.



We balanced these considerations and our objective of bringing closure to the PLR Project. In light of this, we were, in most cases, not able to deal with issues that we considered out-of-scope of the PLR Project – i.e. issues not related to the plain language rewrite process or the registration-reform-related process. We intend to consider out-of-scope issues in the context of our future policy priorities.

#### **4. Impact of the proposed amendments and the proposed PLR Rule Book**

IIROC, Dealer Members and individuals acting on their behalf, and other interested parties will benefit from the enhanced clarity and certainty the proposed PLR Rule Book, as amended by the proposed amendments, offers. We recognize that the operationalization of the proposed PLR Rule Book by Dealer Members and individuals acting on their behalf will require time and effort, and we will consider this in the implementation phase.

#### **5. Policy development process**

##### ***5.1 Regulatory purpose***

In addition to what we have discussed throughout this Notice, the purpose of the proposed PLR Rule Book, as amended by the proposed amendments is also to:

- (i) establish and maintain rules necessary or appropriate to govern and regulate all aspects of IIROC's functions and responsibilities as a self-regulatory entity
- (ii) ensure compliance with securities laws
- (iii) prevent fraudulent and manipulative acts and practices
- (iv) promote just and equitable principles of trade and the duty to act fairly, honestly and in good faith
- (v) foster cooperation and coordination with entities engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities
- (vi) foster fair, equitable and ethical business standards and practices
- (vii) promote the protection of investors.

We classified the proposed amendments as a public comment rule proposal due to their material nature.

##### ***5.2 Regulatory process***

The Board determined the proposed amendments to be in the public interest and on November 29, 2017 approved the proposed amendments for republication for public comment.

IIROC consulted Dealer Members extensively throughout the PLR Project including consultations with the Executive and various sub-committees of each of the Conduct, Compliance and Legal Section and the Financial and Operations Administrators Section, and with the National Advisory Committee.

After considering the comments on the proposed amendments received in response to this Notice, comments of the Recognizing Regulators and our own continuing work on the PLR Project, IIROC may recommend changes to the proposed amendments or to the proposed PLR Rule Book. If the changes are not of a material nature, the Board has authorized the President to approve the changes on behalf of IIROC and to seek approval from the Recognizing Regulators to implement the proposed PLR Rule



Book, as amended by the proposed amendments. If the changes are of a material nature, Board approval for republication or implementation will be sought.

## **6. Attachments**

[Appendix 1](#) – List and description of proposed amendments

[Appendix 2](#) – Proposed amendments (blacklined to March 2017 publication)

[Appendix 3](#) – Proposed amendments (clean)

[Appendix 4](#) – Response to public comments on the March 2017 publication