

# IIROC NOTICE

**Rules Notice**  
**Notice of Withdrawal**  
**Notice of Implementation**  
Dealer Member Rules

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**17-0079**  
**April 6, 2017**

## Personal Financial Dealings with Clients

### Overview

IIROC is:

- (i) withdrawing the amendments we proposed in IIROC [Notice 14-0103](#)<sup>1</sup> to Dealer Member Rules (DMR) 42 and 43<sup>2</sup> (the **Proposed Amendments**), and
- (ii) implementing DMR 43.2(5)(i)<sup>3</sup> as published in IIROC [Notice 13-0162](#)<sup>4</sup>, effective October 6, 2017.

Once DMR 43.2(5)(i) is implemented, employees and Approved Persons will not be able to act as Powers of Attorney, trustees or executors for a client or have control over the financial affairs of a client unless they are related to that client and, for RRs and IRs, have received approval.

<sup>1</sup> Notice 14-0103 – *Proposed Personal Financial Dealing amendments (Notice 14-0103)*

<sup>2</sup> [Dealer Member Rule 42](#) – *Conflicts of Interest (DMR 42)* and [Dealer Member Rule 43](#) – *Personal Financial Dealings with Clients (DMR 43)*

<sup>3</sup> Dealer Member Rule 43.2(5)(i) prohibits personal financial dealings involving control or authority, such as those in which employees or Approved Persons act as a Power of Attorney, trustee, executor or otherwise have full or partial control or authority over the financial affairs of a client.

<sup>4</sup> Notice 13-0162 – *Personal Financial Dealings and Outside Business Activities (Notice 13-0162)*.



We understand there are unique client circumstances that present challenges for Dealer Members to unwind certain existing arrangements. We will consider these situations on a case-by-case basis.

## 1. Background

In 2013, IIROC implemented rules on personal financial dealings with clients (the **PFD Rules**)<sup>5</sup>. The PFD Rules came into effect in December 2013, except DMR 43.2(5)(i).

In 2014, IIROC published the Proposed Amendments for comment to:

- (i) narrow the scope of DMR 43.2(5)(i) such that it only applies to registered representatives (**RRs**) and investment representatives (**IRs**), and
- (ii) provide an exemption that would allow RRs and IRs to act as a non-Related Person's (as defined by the [Income Tax Act \(Canada\)](#)) trustee or executor, subject to certain conditions.

In the case of existing arrangements referred to in DMR 43.2(5)(i), such arrangements were originally required to be unwound or compliant by June 13, 2014. The transition period was extended<sup>6</sup> to allow further consideration of the Proposed Amendments. Currently, the transition period ends 180 days from the implementation of DMR 43.2(5)(i).

## 2. Comments received

We received [eight comment letters](#) from Dealer Members and investors in response to the Proposed Amendments. We noted the following key themes from these letters:

- **Unique Client Situations.** Certain clients may only trust their RR or IR to be appointed as their Power of Attorney, trustee or executor. Existing arrangements may be challenging to unwind, especially where the client is deceased or incapacitated.
- **Existing Controls.** When acting as a Power of Attorney, trustee or executor for a client account, RRs and IRs are required to disclose this role as an outside business activity to their Dealer Member. Dealer Members mark these client accounts as “Pro” accounts and impose supervisory controls.
- **Competitive Disadvantage.** Smaller or independent firms may be placed at a competitive disadvantage against bank-owned firms who can refer clients to a trust company affiliate to meet their estate planning needs.
- **RR/IR Time and Expertise.** Acting as a Power of Attorney, trustee or executor can be time-consuming and require certain expertise. An IR or RR may not be in the best position to act in this capacity, as it may detract from their day-to-day responsibilities of managing client accounts.

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<sup>5</sup> Notice 13-0162. The PFD Rules include DMR 43 and DMR 18.14, which addresses outside business activities.

<sup>6</sup> [Notice 16-0100](#) – Personal Financial Dealings with Clients, [Notice 15-0256](#) – Personal Financial Dealings with Clients, and [Notice 15-0096](#) – Personal Financial Dealings with Clients.



### 3. Decision to withdraw Proposed Amendments

Staff of the Canadian Securities Administrators (**CSA**) expressed some concerns regarding the Proposed Amendments and favoured the current form of the PFD Rules. The Mutual Fund Dealers Association (**MFDA**) recently implemented amendments to its personal financial dealing rule<sup>7</sup> which are consistent with DMR 43.2(5)(i). By withdrawing the Proposed Amendments and implementing DMR 43.2(5)(i), our Rules will be consistent with the MFDA amendments.

To provide our Dealer Members with certainty on this matter, we are withdrawing the Proposed Amendments and implementing DMR 43.2(5)(i) as published in Notice 13-0162. Once DMR 43.2(5)(i) is implemented, employees and Approved Persons will not be able to act as Powers of Attorney, trustees or executors for a client or have control over the financial affairs of a client unless they are related to that client and, for RRs and IRs, have received approval.

We understand there are unique client circumstances that present challenges for Dealer Members to unwind certain existing arrangements. For example, in the case where a client is deceased or incapacitated, a court order may be required to unwind the arrangement. We will consider these situations on a case-by-case basis.

### 4. Implementation

DMR 43.2(5)(i) will come into effect 6 months from the date of this publication. All existing arrangements must be unwound or compliant with DMR 43 by this date. If you have any existing arrangements that will be significantly challenging to unwind, such as where the client is deceased or incapacitated, please contact us immediately.

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<sup>7</sup> MFDA Rule 2.3.1, see [Bulletin #0712-P](#).