

## Chapter 13

# SROs, Marketplaces and Clearing Agencies

---

---

### 13.1 SROs

#### 13.1.1 Notice of Commission Approval – IIROC Dealer Member Rules 800.49 and 200.1(h) – Trade Confirmation and Matching Requirements

#### INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

#### DEALER MEMBER RULES 800.49 AND 200.1(h) – TRADE CONFIRMATION AND MATCHING REQUIREMENTS

#### NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission (Commission or OSC) approved proposed amendments to IIROC dealer member Rule 200.1(h), which governs client trade confirmations, and Rule 800.49, which requires dealers to report and match non-exchange dealer-to-dealer trades on a timely basis. In addition, the British Columbia Securities Commission did not object to, and the Alberta Securities Commission, the Autorité des marchés financiers, the Saskatchewan Financial Services Commission, the Financial Services Regulation Division of the Department of Government Services of Newfoundland and Labrador, the Nova Scotia Securities Commission and the New Brunswick Securities Commission approved the amendments. The primary objectives of the amendments are to promote compliant trade matching practices, as well as to eliminate the sending of duplicative trade related correspondence to clients. More specifically, the amendments to Rule 800.49 will provide dealer members with greater clarity with respect to their broker-to-broker trade reporting and matching requirements; while the amendments to Rule 200.1(h) will provide dealer members with a limited exemption from the trade confirmation requirements in Rule 200.1(h), provided that certain conditions are met.

The amendments, as originally proposed (original amendments), were published for comment on April 9, 2010 in the OSC's Bulletin at (2010) 33 OSCB 3259. Following comments from IIROC's Recognizing Regulators, IIROC staff made revisions to the original amendments to both Rules 800.49 and 200.1(h). These revisions are considered to be non-material. IIROC also summarized the public comments it received on the original amendments and provided responses.

Immediately following this notice, the following documents (in the order shown below) are included in this Chapter 13 of this Bulletin:

1. a black-lined text of the rules showing the cumulative revised amendments made to the existing rules;
2. a black-lined text of the rules showing the revisions made to the original amendments published on April 9, 2010;
3. IIROC's draft summary of public comments and its responses.

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA  
DEALER MEMBER RULE 200.1(h) – TRADE CONFIRMATION REQUIREMENTS

PROPOSED RULE

(Black-lined text of the proposed rule  
showing the cumulative Revised Amendments made to the existing rules)

*Dealer Member* Rule 200.1(h):

- (h) Copies of confirmations of all purchases and sales of securities and of all trades in commodity futures contracts and commodity futures contract options and copies of notices of all other debits and credits of money, securities, property, proceeds of loans and other items for the account of customers. Such written confirmations are required to be sent promptly to customers and shall set forth at least the day and the ~~stock exchange or commodity futures exchange~~marketplace or marketplaces upon which the trade took place, or marketplace disclosure language acceptable to the Corporation; the commission, if any, charged in respect of the trade; the fee or other charge, if any, levied by any securities regulatory authority in connection with the trade; the name of the salesman, if any, in the transaction; the name of the dealer, if any, used by the *Dealer Member* as its agent to effect the trade; and,

In the case of a trade in securities:

- (1) The quantity and description of the security,
- (2) The consideration,
- (3) Whether or not the person or company registered for trading acted as principal or agent,
- (4) If acting as agent in a trade upon a stock exchange the name of the person or company from or to or through whom the security was bought or sold,

In the case of trades in commodity futures contracts:

- (5) The commodity and quantity bought or sold,
- (6) The price at which the contract was entered into,
- (7) The delivery month and year,

In the case of trades in commodity futures contract options:

- (8) The type and number of commodity futures contract options,
- (9) The premium,
- (10) The delivery month and year of the commodity futures contract that is the subject of the commodity futures contract option,
- (11) The declaration date,
- (12) The striking price;

And in the case of trades in mortgage-backed securities and subject to the proviso below:

- (13) The original principal amount of the trade,
- (14) The description of the security (including interest rate and maturity date),
- (15) The remaining principal amount (RPA) factor,
- (16) The purchase/sale price per \$100 of original principal amount,
- (17) The accrued interest,

(18) The total settlement amount,

(19) The settlement date,

Provided that in the case of trades entered into from the third clearing day before month end to the fourth clearing day of the following month, inclusive, a preliminary confirmation shall be issued showing the trade date and the information in clauses (13), (14), (16) and (19) and indicating that the information in clauses (15), (17) and (18) cannot yet be determined and that a final confirmation will be issued as soon as such information is available. After the remaining principal amount factor for the security is available from the central payor and transfer agent, a final confirmation shall be issued including all of the information required above;

And in the case of stripped coupons and residual debt instruments:

(20) The yield thereon calculated on a semi-annual basis in a manner consistent with the yield calculation for the debt instrument which has been stripped,

(21) The yield thereon calculated on an annual basis in a manner consistent with the yield calculation for other debt securities which are commonly regarded as being competitive in the market with such coupons or residuals such as guaranteed investment certificates, bank deposit receipts and other indebtedness for which the term and interest rate is fixed.

And in the case of all other debt instruments, other than stripped coupons and residual debt instruments:

(22) The yield to maturity calculated in a manner consistent with market conventions for the security traded. Where the debt security is subject to call prior to maturity through any means, a notation of "callable" shall be included; and for debt securities carrying a variable coupon rate, the following notation must be included: "The coupon rate may vary."

And in the case of all over-the-counter traded securities, including contracts for difference and foreign exchange contracts, but excluding primary market transactions and over-the-counter derivatives with non-standardized contract terms that are customized to the needs of a particular client and for which there is no secondary market, where the amount of the mark-up or mark-down and other service charges applied by the *Dealer Member* has not been disclosed on the confirmation sent to retail clients, a statement as follows:

(23) "The investment dealer's remuneration on this transaction has been added to the price in the case of a purchase or deducted from the price in the case of a sale."

Each such confirmation shall, in respect of transactions involving securities of the *Dealer Member* or a related issuer of the *Dealer Member*, or in the course of a distribution to the public, securities of a connected issuer of the *Dealer Member*, state that the securities are securities of the *Dealer Member*, a related issuer of the *Dealer Member* or a connected issuer of the *Dealer Member*, as the case may be. For the purposes of this paragraph, the terms "related issuer" and "connected issuer" shall have the same meaning as ascribed to them in the Regulation made under the Securities Act (Ontario).

In the case of a *Dealer Member* controlled by or affiliated with a financial institution, the relationship between the *Dealer Member* and the financial institution shall be disclosed on each confirmation slip in connection with a trade in securities of a mutual fund sponsored by the financial institution or a corporation controlled by or affiliated with the financial institution.

The *Corporation's* policies with respect to electronic delivery of documents are set out in the applicable guideline.

Notwithstanding the provisions of this Rule 200.1(h), a *Dealer Member* shall not be required to provide a confirmation to a client in respect of a trade in a managed account, provided that:

- (i) Prior to the trade, the client has consented in writing to waive the trade confirmation requirement;
- (ii) The client may terminate a waiver by notice in writing. The termination notice shall be effective upon receipt of the written notice by the *Dealer Member*, for trades following the date of receipt;
- (iii) The provision of a confirmation is not required under any applicable securities law, regulation or policy of the jurisdiction in which the client resides or the *Dealer Member* has obtained an exemption from any such law, regulation or policy by the responsible securities regulatory authority; and
- (iv)

- (a) where a person other than the *Dealer Member* manages the account
  - (A) a trade confirmation has been sent to the manager of the account, and
  - (B) the *Dealer Member* complies with the requirements of Rule 200.1(c); or
- (b) where the *Dealer Member* manages the account:
  - (A) the account is not charged any commissions or fees based on the volume or value of transactions in the account;
  - (B) the *Dealer Member* sends to the client a monthly statement that is in compliance with Rule 200.1(c) and contains all of the information required to be contained in a confirmation under this Rule 200.1(h) except:
    - (1) the day and the ~~stock exchange or commodity futures exchange~~ marketplace or marketplaces upon which the trade took place, or marketplace disclosure language acceptable to the Corporation;
    - (2) the fee or other charge, if any, levied by any securities regulatory authority in connection with the trade;
    - (3) the name of the salesman, if any, in the transaction;
    - (4) the name of the dealer, if any, used by the *Dealer Member* as its agent to effect the trade; and,
    - (5) if acting as agent in a trade upon a stock exchange the name of the person or company from or to or through whom the security was bought or sold,
  - (C) the *Dealer Member* maintains the information not required to be in the monthly statement pursuant to paragraph (B) and discloses to the client on the monthly statement that such information will be provided to the client on request.

**Exemption:**

For delivery against payment (DAP) and receipt against payment (RAP) trade accounts, a *Dealer Member* is not required to send a trade confirmation if:

- (i) the trade is either subject to or matched in accordance with broker-to-broker or institutional trade matching requirements under the Corporation's Rules or securities legislation;
- (ii) the *Dealer Member* maintains an electronic audit trail of the trade under the Corporation's Rules or securities legislation;
- (iii) prior to the trade, the client has agreed in writing to waive receipt of trade confirmations from the *Dealer Member*;
- (iv) the client is either:
  - (a) another *Dealer Member* who is reporting or affirming trade details through an acceptable trade matching utility in accordance with Rule 800.49; or
  - (b) an Institutional Customer who is matching DAP/RAP account trades (either directly or through a custodian) in accordance with National Instrument 24-101- Institutional Trade Matching and Settlement;
- (v) the *Dealer Member* and the client have real-time access to, and can download into their own system from the acceptable trade matching utility's or the matching service utility's system, trade details that are similar to the prescribed information under Rule 200.1(h); and
- (vi) the *Dealer Member* has not filed a report as required under Rule 800.49(6) informing the Corporation that it has not met the quarterly compliant trade percentage or has not filed a trade matching exception report as required under securities legislation relevant to the trade, for a minimum of three consecutive quarters.

A client may terminate their trade confirmation waiver, referred to in Rule 200.1(h) under part (iii) of the exemption, by providing a written notice confirming this fact to the *Dealer Member*. The termination notice takes effect upon the *Dealer Member's* receipt of the notice.

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

RULE 800.49 – BROKER-TO-BROKER NON-EXCHANGE TRADE MATCHING

PROPOSED RULE

(Black-lined text of the proposed rule showing the cumulative Revised Amendments made to the existing rules)

800.49. ~~Acceptable broker~~ Broker-to-broker non-exchange trade matching utility

(1) Trade matching requirement

For each non-exchange trade, involving a CDS eligible security, ~~security that is~~ executed by a *Dealer Member* with another *Dealer Member*, each *Dealer Member* must enter:

(i) ~~Enter the trade into an Acceptable Trade Matching Utility or accept~~ acceptable trade matching utility or

(ii) ~~Accept or reject any trade entered into an Acceptable Trade Matching Utility~~ acceptable trade matching utility by another *Dealer Member* ~~[within one hour of executing the trade].~~

at or before 6 p.m. (Toronto time) on the day the trade was executed.

(2) Definition of non-exchange trade

For purposes of this Rule 800.49, an "~~Acceptable Trade Matching Utility~~" shall be the ~~Broker To Broker Trade Matching Utility developed as part of the CDSX development or any similar system approved by the Board of Directors of the Corporation.~~ the purposes of this Rule a non-exchange trade is defined as any trade in a CDS eligible security (excluding new issue trades and repurchase and reverse repurchase transactions) between two Dealer Members, which has not been submitted to the CDS continuous net settlement service by a recognized exchange. The dealer to dealer portion of a jitney trade that is executed between two Dealer Members that is not reported by a recognized exchange is a non-exchange trade.

(3) List of acceptable trade matching utilities

The Corporation maintains a list of acceptable trade matching utilities that is published from time to time.

(4) Trade classification where a Dealer Member enters a trade into the matching utility

If a Dealer Member enters a trade into an acceptable trade matching utility under clause 800.49(1)(i), the trade is considered for each dealer trade counterparty to be a compliant trade, a don't know trade or a non-compliant trade according to the following table:

		<u>Action of other Dealer Member</u>					
		<u>Enter trade at or before 6 p.m.</u>	<u>Accept trade at or before 6 p.m.</u>	<u>Enter or accept trade after 6 p.m.</u>	<u>Reject trade at or before 6 p.m.</u>	<u>Reject trade after 6 p.m.</u>	<u>No action</u>
<u>Action of Dealer Member</u>	<u>Enter trade at or before 6 p.m.</u>	- <u>Dealer Member compliant trade</u> - <u>Other Dealer Member compliant trade</u>	- <u>Dealer Member compliant trade</u> - <u>Other Dealer Member compliant trade</u>	- <u>Dealer Member compliant trade</u> - <u>Other Dealer Member non-compliant trade</u>	- <u>Dealer Member don't know or DK trade</u> - <u>Other Dealer Member don't know or DK trade</u>	- <u>Dealer Member don't know or DK trade</u> - <u>Other Dealer Member non-compliant trade</u>	- <u>Dealer Member compliant trade</u> - <u>Other Dealer Member non-compliant trade</u>
	<u>Enter trade after 6 p.m.</u>	- <u>Dealer Member non-compliant trade</u> - <u>Other Dealer Member compliant trade</u>		- <u>Dealer Member non-compliant trade</u> - <u>Other Dealer Member non-compliant trade</u>		- <u>Dealer Member non-compliant trade</u> - <u>Other Dealer Member don't know or DK trade</u>	- <u>Dealer Member non-compliant trade</u> - <u>Other Dealer Member non-compliant trade</u>

**(5) Trade classification where a Dealer Member does not enter a trade into the matching utility**

If a Dealer Member accepts or rejects a trade entered into an acceptable trade matching utility by another Dealer Member under clause 800.49(1)(ii) or takes no action on a trade entered into an acceptable trade matching utility by another Dealer Member, the trade is considered for each dealer trade counterparty to be a compliant trade, a don't know trade or a non-compliant trade according to the following table:

		<b><u>Action of other Dealer Member</u></b>	
		<u>Enter trade at or before 6 p.m.</u>	<u>Enter trade after 6 p.m.</u>
<u>Action of Dealer Member</u>	<u>Accept at or before 6 p.m.</u>	<u>Dealer Member compliant trade</u> <u>Other Dealer Member compliant trade</u>	
	<u>Accept after 6 p.m.</u>	- <u>Dealer Member non-compliant trade</u> - <u>Other Dealer Member compliant trade</u>	- <u>Dealer Member non-compliant trade</u> - <u>Other Dealer Member non-compliant trade</u>
	<u>Reject at or before 6 p.m.</u>	- <u>Dealer Member don't know or DK trade</u> - <u>Other Dealer Member don't know or DK trade</u>	
	<u>Reject after 6 p.m.</u>	- <u>Dealer Member non-compliant trade</u> - <u>Other Dealer Member don't know or DK trade</u>	- <u>Dealer Member don't know or DK trade</u> - <u>Other Dealer Member non-compliant trade</u>
	<u>No action</u>	- <u>Dealer Member non-compliant trade</u> - <u>Other Dealer Member compliant trade</u>	- <u>Dealer Member non-compliant trade</u> - <u>Other Dealer Member non-compliant trade</u>

**(6) Determination of quarterly compliant trade percentage**

The quarterly compliant trade percentage for a Dealer Member is determined by dividing the sum of quarter's compliant trades (which does not include "don't know" trades) by the total number of non-exchange trades that are executed during the quarter by the Dealer Member with other Dealer Members.

A Dealer Member must promptly report to the Corporation when their quarterly compliant trade percentage is less than 90% in any quarter and must include in this report its action plan to improve its percentage. Failure to increase the compliant trade percentage to 90% or more within the next quarter after the first sub-standard report will be grounds for the Corporation to pursue disciplinary action.

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA  
DEALER MEMBER RULE 200.1(h) – TRADE CONFIRMATION REQUIREMENTS

PROPOSED RULE

(Black-lined text of the proposed rule showing the cumulative Revised  
Amendments made to the Original Amendments)

Dealer Member Rule 200.1(h):

- (h) Copies of confirmations of all purchases and sales of securities and of all trades in commodity futures contracts and commodity futures contract options and copies of notices of all other debits and credits of money, securities, property, proceeds of loans and other items for the account of customers. Such written confirmations are required to be sent promptly to customers and shall set forth at least the day and the marketplace or marketplaces upon which the trade took place, or marketplace disclosure language to the *Corporation*; the commission, if any, charged in respect of the trade; the fee or other charge, if any, levied by any securities regulatory authority in connection with the trade; the name of the salesman, if any, in the transaction; the name of the dealer, if any, used by the *Dealer Member* as its agent to effect the trade; and,

In the case of a trade in securities:

- (1) The quantity and description of the security,
- (2) The consideration,
- (3) Whether or not the person or company registered for trading acted as principal or agent,
- (4) If acting as agent in a trade upon a stock exchange the name of the person or company from or to or through whom the security was bought or sold,

In the case of trades in commodity futures contracts:

- (5) The commodity and quantity bought or sold,
- (6) The price at which the contract was entered into,
- (7) The delivery month and year,

In the case of trades in commodity futures contract options:

- (8) The type and number of commodity futures contract options,
- (9) The premium,
- (10) The delivery month and year of the commodity futures contract that is the subject of the commodity futures contract option,
- (11) The declaration date,
- (12) The striking price;

And in the case of trades in mortgage-backed securities and subject to the proviso below:

- (13) The original principal amount of the trade,
- (14) The description of the security (including interest rate and maturity date),
- (15) The remaining principal amount (RPA) factor,
- (16) The purchase/sale price per \$100 of original principal amount,
- (17) The accrued interest,

- (18) The total settlement amount,
- (19) The settlement date,

Provided that in the case of trades entered into from the third clearing day before month end to the fourth clearing day of the following month, inclusive, a preliminary confirmation shall be issued showing the trade date and the information in clauses (13), (14), (16) and (19) and indicating that the information in clauses (15), (17) and (18) cannot yet be determined and that a final confirmation will be issued as soon as such information is available. After the remaining principal amount factor for the security is available from the central payor and transfer agent, a final confirmation shall be issued including all of the information required above;

And in the case of stripped coupons and residual debt instruments:

- (20) The yield thereon calculated on a semi-annual basis in a manner consistent with the yield calculation for the debt instrument which has been stripped,
- (21) The yield thereon calculated on an annual basis in a manner consistent with the yield calculation for other debt securities which are commonly regarded as being competitive in the market with such coupons or residuals such as guaranteed investment certificates, bank deposit receipts and other indebtedness for which the term and interest rate is fixed.

And in the case of all other debt instruments, other than stripped coupons and residual debt instruments:

- (22) The yield to maturity calculated in a manner consistent with market conventions for the security traded. Where the debt security is subject to call prior to maturity through any means, a notation of "callable" shall be included; and for debt securities carrying a variable coupon rate, the following notation must be included: "The coupon rate may vary."

And in the case of all over-the-counter traded securities, including contracts for difference and foreign exchange contracts, but excluding primary market transactions and over-the-counter derivatives with non-standardized contract terms that are customized to the needs of a particular client and for which there is no secondary market, where the amount of the mark-up or mark-down and other service charges applied by the Dealer Member has not been disclosed on the confirmation sent to retail clients, a statement as follows:

- (23) "The investment dealer's remuneration on this transaction has been added to the price in the case of a purchase or deducted from the price in the case of a sale."<sup>1</sup>

Each such confirmation shall, in respect of transactions involving securities of the *Dealer Member* or a related issuer of the *Dealer Member*, or in the course of a distribution to the public, securities of a connected issuer of the *Dealer Member*, state that the securities are securities of the *Dealer Member*, a related issuer of the *Dealer Member* or a connected issuer of the *Dealer Member*, as the case may be. For the purposes of this paragraph, the terms "related issuer" and "connected issuer" shall have the same meaning as ascribed to them in the Regulation made under the Securities Act (Ontario).

In the case of a *Dealer Member* controlled by or affiliated with a financial institution, the relationship between the *Dealer Member* and the financial institution shall be disclosed on each confirmation slip in connection with a trade in securities of a mutual fund sponsored by the financial institution or a corporation controlled by or affiliated with the financial institution.

The *Corporation's* policies with respect to electronic delivery of documents are set out in the applicable guideline.

Notwithstanding the provisions of this Rule 200.1(h), a *Dealer Member* shall not be required to provide a confirmation to a client in respect of a trade in a managed account, provided that:

---

1 OSC staff note: The above underlined text that includes these new paragraphs (22) and (23) was not part of the proposed amendments to Rule 200.1(h) published for comment on April 9, 2010. This text was a separate amendment that was published for comment on June 4, 2010. See IIROC's Rules Notice and Request for Comments on proposed amendments to dealer member rules concerning the fair pricing of over-the-counter securities and confirmation disclosure requirements (the "OTC fair pricing amendments") at (2010) 33 OSCB 5165. The OTC fair pricing amendments were approved by the Recognizing Regulators in August 2011. See the Commission's notice of approval dated August 26, 2011 at (2011) 34 OSCB 9037. The above underlined text came into effect on September 4, 2012. See IIROC's Rules Notice - Notice of Approval/Implementation 11-0256 dated September 1, 2011 at: [http://www.iroc.ca/Documents/2011/2de65b7e-0866-4e35-b760-468c54007592\\_en.pdf](http://www.iroc.ca/Documents/2011/2de65b7e-0866-4e35-b760-468c54007592_en.pdf). The above text is underlined here only because it did not exist when the original amendments to IIROC's *Trade Matching and Confirmation Requirements* were published for comment on April 9, 2010.

- (i) Prior to the trade, the client has consented in writing to waive the trade confirmation requirement;
- (ii) The client may terminate a waiver by notice in writing. The termination notice shall be effective upon receipt of the written notice by the *Dealer Member*, for trades following the date of receipt;
- (iii) The provision of a confirmation is not required under any applicable securities law, regulation or policy of the jurisdiction in which the client resides or the *Dealer Member* has obtained an exemption from any such law, regulation or policy by the responsible securities regulatory authority; and
- (iv)
  - (a) where a person other than the *Dealer Member* manages the account
    - (A) a trade confirmation has been sent to the manager of the account, and
    - (B) the *Dealer Member* complies with the requirements of Rule 200.1(c); or
  - (b) where the *Dealer Member* manages the account:
    - (A) the account is not charged any commissions or fees based on the volume or value of transactions in the account;
    - (B) the *Dealer Member* sends to the client a monthly statement that is in compliance with Rule 200.1(c) and contains all of the information required to be contained in a confirmation under this Rule 200.1(h) except:
      - (1) the day and the marketplace or marketplaces upon which the trade took place, or marketplace disclosure language acceptable to the *Corporation*;
      - (2) the fee or other charge, if any, levied by any securities regulatory authority in connection with the trade;
      - (3) the name of the salesman, if any, in the transaction;
      - (4) the name of the dealer, if any, used by the *Dealer Member* as its agent to effect the trade; and,
      - (5) if acting as agent in a trade upon a stock exchange the name of the person or company from or to or through whom the security was bought or sold,
    - (C) the *Dealer Member* maintains the information not required to be in the monthly statement pursuant to paragraph (B) and discloses to the client on the monthly statement that such information will be provided to the client on request.

**Exemption:**

For delivery against payment (DAP) and receipt against payment (RAP) trade accounts, a *Dealer Member* is not required to send a trade confirmation if:

- (i) the trade is either subject to or matched in accordance with broker-to-broker or institutional trade matching requirements under *the Corporation's* Rules or securities legislation;
- (ii) the *Dealer Member* maintains an electronic audit trail of the trade under *the Corporation's* Rules or securities legislation;
- (iii) prior to the trade, the client has agreed in writing to waive receipt of trade confirmations from the *Dealer Member*;
- (iv) the client is either:
  - (a) another *Dealer Member* who is reporting or affirming trade details through an *acceptable trade matching utility* in accordance with Rule 800.49; or

- (b) ~~a DAP/RAP account customer other than a Dealer Member~~ an Institutional Customer who is matching DAP/RAP account trades (either directly or through a custodian) in accordance with National Instrument 24-101- Institutional Trade Matching and Settlement;
- (v) the ~~Dealer Member~~ has and the client have real-time access to, and can download into their own system from the acceptable trade matching utility's or the matching service utility's system, trade details that are similar to the prescribed information under Rule 200.1(h); and
- (vi) the ~~Dealer Member is in compliance with the trade matching requirements~~ has not filed a report as required under Rule 800.49(6) informing the Corporation's Rules or that it has not met the quarterly compliant trade percentage or has not filed a trade matching exception report as required under securities legislation relevant to the trade, for a minimum of three consecutive quarters.

A client may terminate their trade confirmation waiver, referred to in Rule 200.1(h)(2) under part (iii) of the exemption, by providing a written notice confirming this fact to the *Dealer Member*. The termination notice takes effect upon the *Dealer Member's* receipt of the notice.

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA  
RULE 800.49 – BROKER-TO-BROKER NON-EXCHANGE TRADE MATCHING

PROPOSED RULE

(Black-lined text of the proposed rule showing the cumulative Revised  
Amendments made to the Original Amendments)

**800.49. Broker-to-broker non-exchange trade matching**

(1) **Trade matching requirement**

For each non-exchange trade, involving a *CDS eligible security* that is executed by a *Dealer Member* with another *Dealer Member*, each *Dealer Member* must:

- (i) Enter the trade into an *acceptable trade matching utility* or
- (ii) Accept or reject any trade entered into an *acceptable trade matching utility* by another *Dealer Member*.

at or before 6 p.m. (Toronto time) on the day the trade was executed.

(2) **Definition of non-exchange trade**

For the purposes of this Rule a non-exchange trade is defined as any trade in a *CDS eligible security* (excluding new issue trades and repurchase and reverse repurchase transactions) between two *Dealer Members*, which has not been submitted to the CDS continuous net settlement service, ~~CDSX~~, by a recognized exchange. The dealer to dealer portion of a jitney trade that is executed between two *Dealer Members* that is not reported by a recognized exchange is a non-exchange trade.

(3) **List of acceptable trade matching utilities**

*The Corporation* maintains a list of *acceptable trade matching utilities* that is published from time to time.

(4) Trade classification where a Dealer Member enters a trade into the matching utility

If a Dealer Member enters a trade into an acceptable trade matching utility under clause 800.49(1)(i), the trade is considered for each dealer trade counterparty to be a compliant trade, a don't know trade or a non-compliant trade according to the following table:

		Action of other Dealer Member					
		Enter trade at or before 6 p.m.	Accept trade at or before 6 p.m.	Enter or accept trade after 6 p.m.	Reject trade at or before 6 p.m.	Reject trade after 6 p.m.	No action
<b>Action of Dealer Member</b>	Enter trade at or before 6 p.m.	- Dealer Member compliant trade - Other Dealer Member compliant trade	- Dealer Member compliant trade - Other Dealer Member compliant trade	- Dealer Member compliant trade - Other Dealer Member non-compliant trade	- Dealer Member don't know or DK trade - Other Dealer Member don't know or DK trade	- Dealer Member don't know or DK trade - Other Dealer Member non-compliant trade	- Dealer Member compliant trade - Other Dealer Member non-compliant trade
	Enter trade after 6 p.m.	- Dealer Member non-compliant trade - Other Dealer Member compliant trade		- Dealer Member non-compliant trade - Other Dealer Member non-compliant trade		- Dealer Member non-compliant trade - Other Dealer Member don't know or DK trade	- Dealer Member non-compliant trade - Other Dealer Member non-compliant trade

(5) Trade classification where a Dealer Member does not enter a trade into the matching utility

If a Dealer Member accepts or rejects a trade entered into an *acceptable trade matching utility* by another *Dealer Member* under clause 800.49(1)(ii) or takes no action on a trade entered into an *acceptable trade matching utility* by another *Dealer Member*, the trade is considered for each dealer trade counterparty to be a *compliant trade*, a *don't know trade* or a *non-compliant trade* according to the following table:

		Action of other <i>Dealer Member</i>	
		Enter trade at or before 6 p.m.	Enter trade after 6 p.m.
<b>Action of <i>Dealer Member</i></b>	Accept at or before 6 p.m.	- <i>Dealer Member</i> compliant trade - Other <i>Dealer Member</i> compliant trade	
	Accept after 6 p.m.	- <i>Dealer Member</i> non-compliant trade - Other <i>Dealer Member</i> compliant trade	- <i>Dealer Member</i> non-compliant trade - Other <i>Dealer Member</i> non-compliant trade
	Reject at or before 6 p.m.	- <i>Dealer Member</i> don't know or DK trade - Other <i>Dealer Member</i> don't know or DK trade	
	Reject after 6 p.m.	- <i>Dealer Member</i> non-compliant trade - Other <i>Dealer Member</i> don't know or DK trade	- <i>Dealer Member</i> don't know or DK trade - Other <i>Dealer Member</i> non-compliant trade
	No action	- <i>Dealer Member</i> non-compliant trade - Other <i>Dealer Member</i> compliant trade	- <i>Dealer Member</i> non-compliant trade - Other <i>Dealer Member</i> non-compliant trade

(6) Determination of monthly/quarterly compliant trade percentage

The monthly/quarterly compliant trade percentage for a *Dealer Member* is determined by dividing the sum of month/quarter's compliant trades (which does not include "don't know" trades) by the total number of non-exchange trades that are executed during the month/quarter by the *Dealer Member* with other *Dealer Members*.

~~For months ending prior to or on June 30, 2012, a *Dealer Member* must promptly report to the *Corporation* when this monthly compliant trade percentage is less than 85% in any month and must include in this report its action plan to improve its percentage. Failure to increase the compliant trade percentage to 85% or more within 3 months of the first sub-standard report will be grounds for the *Corporation* to pursue disciplinary action. Beginning on or after July 1, 2012, a *Dealer Member* must promptly report to the *Corporation* when their monthly/quarterly compliant trade percentage is less than 90% in any month/quarter and must include in this report its action plan to improve its percentage. Failure to increase the compliant trade percentage to 90% or more within 3 months of the next quarter after the first sub-standard report will be grounds for the *Corporation* to pursue disciplinary action.~~

DRAFT

December xx, 2012

**Subject: IIROC response to comments on the proposed amendments to IIROC Dealer Member Rules 800.49 and 200.1(h)**

Dear Public Commenter:

IIROC staff (we) are publishing this letter in response to the five public comment letters we received on the proposed amendments to IIROC Dealer Member Rules 800.49 and 200.1(h). We thank you for your comments and we have summarized and grouped them according to the Dealer Member Rule and issues raised. Our response follows each particular issue. As detailed in the Implementation Notice, we have made revisions to the proposed amendments to both Dealer Member Rules 800.49 and 200.1(h). Those revisions are considered to be non-material and are emphasized in our responses, where relevant.

**DEALER MEMBER RULE 200.1(H)**

**1. Marketplace disclosure requirement**

- (i) *Further clarification and details are required on the definition of 'marketplace', and whether or not a Dealer Member will be permitted to use the present format rather than change to the recommendation given the reference to 'or marketplace disclosure language acceptable to the Corporation' in the proposed amendments.*

IIROC staff response

Currently, Rule 200.1(h) requires Dealer Members to set forth "the stock exchange or commodity futures exchange upon which a trade took place". By replacing this language with "the marketplace or marketplaces upon which the trade took place", all exchange facilities, including those which are not recognized exchange facilities, such as quotation and trade reporting systems and alternative trading systems, are captured. Under the proposed amendments [at the beginning of proposed Rule 200.1(h)], Dealer Members would have the choice to simply name the marketplace (which is the present format) or use marketplace disclosure language that is acceptable to IIROC. That choice is up to the Dealer Member.

**2. Account types and clients eligible for exemptive relief**

- (i) *In addition to the 'delivery against payment' (DAP) and 'receipt against payment' (RAP) trade accounts, IIROC should also consider adding 'Direct Participant' (DP) trade accounts to the list of account types that would be considered eligible for the exemption under the proposed amendments to Rule 200.1(h).*

IIROC staff response

There are two types of DPs (IIROC Dealer Members and non-IIROC Dealer Members, such as HKBF and CGUS). The proposed amendments would make DP accounts that are for IIROC Dealer Members eligible for the exemption. The issue with extending this exemption eligibility to DP accounts that are for non-IIROC Dealer Members is that the non-IIROC Dealer Members trades are not subject to either NI 24-101 or Rule 800.49 requirements, and we currently do not include those trades in IIROC's broker-to-broker (dealer) trade matching monthly compliance reports to Dealer Members.

**3. Transition period**

- (i) *IIROC should outline a transition period for Dealer Members to discontinue the issuance of client confirmations since Dealer Members may be required to update their systems in order to identify those accounts for which the client has provided consent to waive the receipt of trade confirmations.*

IIROC staff response

Dealer Members will have the discretion to exercise this exemption once all requirements have been satisfied, as well as the flexibility to update their systems at that time. Because the exemption is optional for Dealer Members who have satisfied the requirements listed in proposed Rule 200.1(h), a transition period is not necessary.

**4. Compliant trade matching percentages**

- (i) *What is meant by compliant? If a Dealer Member reports they have missed the 90% threshold, but has policies and procedures designed to meet the threshold are they compliant? If compliance means meeting the percentage threshold, is the requirement to be compliant for a certain portion of a given period (e.g. compliant for x months in a year) or is it a requirement to always be compliant? The latter would lead to a situation which is unworkable from an operational perspective and confusing to a client. There is also a concern that in many firms, there is a manual process to trigger confirmation processing and uncertainty and delay about the trigger might result in unnecessary stopping and starting of the confirmation reporting process.*

IIROC staff response

In order to be considered 'compliant' pursuant to part (vi) of the exemption under proposed Rule 200.1(h), Dealer Members must be able to demonstrate that they have met the required compliant trade percentage thresholds in NI 24-101 and proposed Rule 800.49 for at least three consecutive quarters. It is insufficient to have in place policies and procedures designed to meet these thresholds, and yet fail to satisfy the required compliant target thresholds. IIROC staff believes that these standards are reasonably attainable and do not impose unrealistic percentage thresholds on Dealer Members. Proposed Rule 200.1(h) has been revised to clarify this requirement.

- (ii) *If the Dealer Member is non compliant in any quarter how will this impact the ability to offer non receipt of confirmations to their clients?*

IIROC staff response

Please see response to (iii).

- (iii) *If a Dealer Member is in compliance with the trade matching percentages for a period of months and then has one instance of non-compliance, would the proposed amendments require them to resume sending the client a trade confirmation? The client, whom this Rule is intended to protect, would only become confused as to when they receive trade confirmations. From the client's perspective, the receipt of trade confirmation would be random and unpredictable.*

IIROC staff response

Yes, the proposed amendments would require the Dealer Member to resume sending the client trade confirmations. Should the Dealer Member choose to take advantage of the exemption in proposed Rule 200.1(h) at a later date, they would be required to re-satisfy the requirements under the exemption under proposed Rule 200.1(h), including obtaining an updated written consent by the client to waive receipt of trade confirmations, as well as demonstrate compliant thresholds for three consecutive quarters.

- (iv) *Once the compliant threshold requirements are met, is the Dealer Member immediately eligible for exemptive relief?*

IIROC staff response

In order to qualify for the exemptive relief, Dealer Members must demonstrate that trade percentage thresholds have been satisfied for at least three consecutive quarters, as well as satisfy the other requirements in parts (i) to (v) of the exemption under proposed Rule 200.1(h).

- (v) *Further clarification is required regarding the documentation of accounts if a Dealer Member is not compliant with the requirements outlined in Rule 800.49 or NI-24-101. Would a Dealer Member be required to review all of the accounts if they are not compliant with the applicable requirements and be required to distribute the trade confirmations immediately? Based on the results of their monthly compliant trade percentage threshold, a Dealer Member may be required to start/stop the trade confirmations for clients. One comment letter suggests that Rule 200.1(h) be amended to indicate that if a Dealer Member is not in compliance with Rule 800.49 or NI 24-101 for more than three consecutive quarters, then it would be mandatory for the Dealer Member to distribute the trade confirmations to all clients.*

IIROC staff response

Dealer Members will be required to immediately resume distribution of trade confirmations if they fail to satisfy the requirements set out in parts (i) to (vi) of the exemption under proposed Rule 200.1(h). Proposed Rule 200.1(h) has been revised to indicate that if a Dealer Member is not in compliance with proposed Rule 800.49 or NI 24-101 for more than three consecutive quarters, then it would be mandatory for the Dealer Member to redistribute the trade confirmations to all clients.

- (vi) *The exemption from sending trade confirmations should not be predicated on a Dealer Member being compliant with percentage thresholds. If the client has consented (and in many instances requested) to not receive trade confirmations, and they receive the necessary information they require electronically, what aim is achieved by the requirement to also meet trade matching compliant percentage thresholds?*

IIROC staff response

The exemptive relief is to enhance overall compliance by Dealer Members. Only Dealer Members who have policies and procedures that successfully meet compliant thresholds will qualify for the exemptive relief.

- (vii) *Will the client also have to meet the compliance percentages in order to request in writing non receipt of confirmations?*

IIROC staff response

No, the client will not also have to meet the compliance percentages in order to request in writing non receipt of confirmations.

- (viii) *Does the Dealer Member have to meet the trade matching requirements in both equity and debt and in all dollar value categories?*

IIROC staff response

The requirement is for Dealer Members to meet the monthly trade percentage set out in proposed Rule 800.49 and NI 24-101, for a minimum of three consecutive quarters, in addition to the requirements set out in parts (i) to (v) under the exemption in proposed Rule 200.1(h). For proposed Rule 800.49, the percentage threshold is determined by dividing the sum of month's compliant trades by the total number of non-exchange trades that are executed during the month by the Dealer Member with other Dealer Members.

- (ix) *Will there be a requirement for the Dealer Member to monitor the client account(s) for ongoing compliance and if so with what frequency?*

IIROC staff response

Although there is no formal requirement to monitor client account(s), Dealer Members should be engaged in such practices to ensure compliance.

- (x) *Are the Dealer Member and/or the client required to be compliant in both entered and entered/matched if they only have the responsibility to enter the transactions and provide sufficient lead time for the matching market participant?*

IIROC staff response

As detailed in part (vi) under "Exemption" in the proposed amendments to Rule 200.1(h), it is the Dealer Member that is required to be in compliance with the trade matching requirements under the Corporation's Rules [Rule 800.49] or securities legislation [NI 24-101] relevant to the trade. Under section 4.1 of Part 4 of NI 24-101, the exception reporting requirement is based on matched trades and therefore, a Dealer Member cannot conclude they only have the responsibility to enter the transactions and provide sufficient lead time for the matching market participant.

**DEALER MEMBER RULE 800.49**

**1. Don't know trades ("DK Trades")**

- (i) *Rule 800.49 reads as follows: "The monthly compliant trade percentage for a Dealer Member is determined by dividing the sum of month's compliant trades (which does not include DK Trades) by the total number of non-exchange trades that are executed during the month by the Dealer Member with other Dealer Members." When saying non-exchange trades that are executed during the month, does that include DK Trades?*

IIROC staff response

Yes, "DK Trades" are to be included in the total number of non-exchange trades that are executed during the month by the Dealer Member with another Dealer Member. A DK Trade is a non-exchange trade that has been subsequently DK'd by the other Dealer Member to the trade. **The revisions to Rule 800.49(6) have made the compliance monitoring quarterly instead of monthly and therefore, DK Trades are to be included in the total number of non-exchange trades that are executed during the quarter by the Dealer Member with another Dealer Member.**

- (ii) *If we send 10 trades and 2 are DK Trades, from what we understand we would achieve an 80% compliant rate. If we correct those 2 DK Trades, then they would in fact be non-compliant trades. However, if those 10 trades were sent on time and the 2 DK Trades were only unDK Trades the following day with no change and matched by the other dealer, the trades should become compliant, bringing us to 100%. Often trades are DK Trades when a dealer has no instructions, yet when the instructions come in, the trades are then matched. The first submitter should not be penalized for the other dealer's lack of instructions. If our rate is below the target we will need to file an exception report to IIROC.*

*Furthermore, if we are asked to explain the discrepancies we would then be forced to disclose dealers who were DKing our trades due to lack of instructions which would then affect our business relationship with such dealers.*

IIROC staff response

The first submitter should not be penalized for the other Dealer Member's lack of instructions. IIROC will not know the reason for a DK Trade without an explanation from one or both of the Dealer Members involved in the DK Trade. In addition, given that the requirement to report or confirm a trade will be extended from "within one hour or trade execution" to "at or before 6 p.m. on the day of trade", IIROC expects Dealer Members will be less inclined to DK the other Dealer Member's trade for lack of instructions.

IIROC needs the explanation from both Dealer Members to investigate which Dealer Member has systemic operational problems in reporting trades. IIROC also believes that your firm should also be concerned that the Dealer Member you are trading with has systemic operational problems in reporting trades, which could affect the settlement of your trades with that Dealer Member.

**2. Extension of trade reporting requirement**

- (i) *Members agree that the change from "within one hour or trade execution" to "at or before 6:00 p.m. on the day of the trade" will enable clients who presently use batch processing to achieve higher rates of compliance. However, while Dealer Members are generally pleased with the change to a 6:00 p.m. cut off time, this time frame may be early given that daily batch trade file submission to CDS occurs closer to midnight on T. We would appreciate some clarification as to why the cut-off times have not been made consistent.*

IIROC staff response

See response to (ii).

- (ii) *In order to ensure compliance some Dealer Members may need to extend their hours of operation. With the potential to enter non exchange trades until 6 p.m., the other Dealer Member may have insufficient time or the staffing available to ensure that the trade is matched or DK'd when necessary. While larger Dealer Members may have the ability to adjust staffing hours, small and midsize firms may not have the same flexibility. While we do not believe that mandating staffing until the cut off time is an option, this may have a negative impact on some Dealer Members in consistently meeting the compliance timeline.*

IIROC staff response

It is IIROC's understanding that Dealer Members or their service providers have control over the time they submit batch trades to CDS. The 6 p.m. cut-off time was chosen by IIROC as it offered a balance for:

- Dealer Members that do not want to have staff working to report the day's trades well beyond when the markets closed (4:30 p.m.);
- Dealer Members that do market-on-close trades and/or accumulation type trades, which sometimes occur up to 5:00 p.m.;
- Dealer Members that use batch trade file submission and want to continue to use batch trade file submission, but did not see the benefit in submitting trade files within the hour of trade execution; and
- Dealer Members that have made the effort and investment in people, systems and processes to comply with meeting the current "one-hour requirement", which was implemented several years ago.

IIROC must still have timely trade reporting and matching requirements in order to achieve a high quality regulatory and investment industry standard that strengthens market integrity while maintaining efficient and competitive capital markets.

- (iii) *In order to take advantage of an extension, some Dealer Members may need to extend their hours of operation to ensure that contacts are available to discuss a particular transaction. There may be potential for non-compliance among Dealer Members (and clients) that cannot incur the extra costs of maintaining staff until an extended cut-off time (whether it is 6:00 p.m. or otherwise). While we do not think it is appropriate to mandate staffing requirements, the compliance rates will continue to be affected in the instances where firms and clients do not have the resources to extend their hours.*

IIROC staff response

The intent of the extension is to offer Dealer Members that have difficulty reporting trades within the hour of trade execution some additional time. For firms that currently do not have a problem reporting trades within the hour of trade execution, IIROC does not expect them to be negatively impacted by the extension.

**3. Monthly compliance report**

- (i) *Members agree that the requirement to complete a monthly compliance report will increase the focus of members and clients on the requirements of the Rule. However, it is recommended that IIROC provide further details on the reporting requirements (i.e. provide a format for the report to ensure consistency in the content). Dealer Members were also interested in the availability of online reporting, similar to what is available for reporting under National Instrument 24-101.*

IIROC staff response

IIROC will provide further details on the reporting requirements including whether online reporting would be made available to Dealer Members, as well as the timeframe in which the report is to be provided. **The revisions to Rule 800.49(6) have made the compliance monitoring quarterly instead of monthly and therefore, the monthly compliance report will now be a quarterly compliance report.**

- (ii) *The requirement to submit a monthly compliance report will likely increase the focus on meeting the revised compliance timeframe. However, further guidance and information is required on the actual report. It was suggested that a standard report format be provided, due date for filing and the option to file online as with the quarterly reports pursuant to NI 24-101. The standard format will ensure consistency in the level of detail and information contained within the report, as well as ensure that all submissions meet the requirements for any follow up required. We question as well as to whether a Nil report will be required.*

IIROC staff response

See response to (i).

- (iii) *More guidance is required on the timeframe in which the report is to be provided (the draft language only provides for reports to be made "promptly"). It has been suggested that quarterly reporting, similar to what is required by NI 24-101, would be more appropriate and efficient than what is proposed in the Notice since confusion between the two rules may occur.*

IIROC staff response

See response to (i).

- (iv) *The notice issued in connection with the proposed amendments introduces inconsistencies between Dealer Member Rules and NI 24-101. Currently NI 24-101 requires reporting at noon on T+1 where compliance trade matching thresholds are below 90%. Rule 800.49 introduces a two-tiered standard (85% or more prior to June 30, 2012 and 90% or more after July 1, 2012) which is similar to, but not the same, as NI 24-101. Furthermore NI 24-101 requires quarterly reporting where Rule 800.49 requires monthly reporting. We believe that the Dealer Member Rules should be harmonized with NI 24-101.*

IIROC staff response

IIROC's two-tiered phased in approach was based on the CSA's Notice and Request for Comments on Proposed Amendments to NI 24-101 Institutional Trade Matching and Settlement and Companion Policy 24-101CP Institutional Trade Matching and Settlement [October 30, 2009, (2009) 32 OSCB]<sup>2</sup>, which had proposed reporting thresholds on T of 70 per cent, 80 per cent and 90 per cent that were to be phased in July 1, 2015, July 1, 2016 and July 1, 2017 under

---

<sup>2</sup> [http://www.osc.gov.on.ca/documents/en/Securities-Category2/rule\\_20091030\\_24-101\\_pro-amd.pdf](http://www.osc.gov.on.ca/documents/en/Securities-Category2/rule_20091030_24-101_pro-amd.pdf)

Part 7 – Transition. However, the revised percentages of NI 24-101 have since been revised in the CSA Notice of Amendments to NI 24-101 Institutional Trade Matching and Settlement and Companion Policy 24-101CP Institutional Trade Matching and Settlement [April 16, 2010, (2010) 33 OSB]<sup>3</sup> to remove the reporting thresholds on T phased in approach and maintain the current requirement to match trades by noon on T+1 with a reporting threshold of 90 per cent.

**The revisions to Rule 800.49(6) have made the compliance monitoring quarterly instead of monthly and removed the staged implementation of the compliant trade percentage threshold. They were agreed to in order to reduce the potential confusion among Dealer Members that also execute institutional trades that are subject to quarterly compliance monitoring and a 90% compliant trade percentage threshold under NI 24-101.**

- (v) *How will compliancy rates be measured going forward? For instance, will Dealer Members be required to build in house reporting tools? Furthermore, we request clarification on whether or not the proposed thresholds will continue to be based on the number of trades.*

IIROC staff response

Going forward, CDS will measure the compliance rates and will provide them to Dealer Members. The thresholds will continue to be based on the number of trades.

- (vi) *We understand the reason for the request for monthly submissions however, for the longer term, is there a plan to move to the quarterly submissions to be consistent with the requirements under NI 24-101?*

IIROC staff response

**The revisions to Rule 800.49(6) have made the compliance monitoring quarterly instead of monthly and were agreed to in order to reduce the potential confusion among Dealer Members that also execute institutional trades that are subject to quarterly compliance monitoring under NI 24-101.**

Sincerely,

Angie F. Foggia  
Policy Counsel, Member Regulation Policy

Answerd A. Ramcharan  
Specialist, Member Regulation Policy

CC: Jack Rando, Investment Industry Association of Canada  
Rena Shadowitz, BMO Nesbitt Burns Inc.  
André Zanga, Casgrain & Company Limited  
Catherine Patterson, RBC Dominion Securities Inc.  
Irene Urshon, TD Waterhouse Canada Inc.  
IIROC Oversight Committee

---

<sup>3</sup> [http://www.osc.gov.on.ca/documents/en/Securities-Category2/csa\\_20100416\\_24-101\\_notice-amd.pdf](http://www.osc.gov.on.ca/documents/en/Securities-Category2/csa_20100416_24-101_notice-amd.pdf)