

## CSA Staff Notice 31-331

### *Follow-up to Broker-Dealer Registration in the Exempt Market Dealer Category*

July 12, 2012

#### **Introduction**

On September 2, 2011, Canadian Securities Administrators (**CSA** or we) published CSA Staff Notice 31-327 *Broker-Dealer Registration in the Exempt Market Dealer Category* (**CSA Staff Notice 31-327**). This notice is a follow-up to the CSA Staff Notice 31-327.

#### **Substance and Purpose**

The purpose of this notice is to introduce an Investment Industry Regulatory Organization of Canada (**IIROC**) Concept Paper published as IIROC Notice 12-0217 (the **IIROC proposal**).

#### ***Background***

CSA Staff Notice 31-327 raised concerns with firms applying for registration, or registered, in the exempt market dealer (**EMD**) category that are conducting brokerage activities (trading securities listed on an exchange in foreign or Canadian markets) (**brokerage activities**). It stated that we would be examining this issue to ensure that appropriate regulatory requirements apply to all firms conducting brokerage activities.

#### ***Consultation***

We conducted a survey of all EMD firms to determine the extent of these activities. We determined that it is primarily broker-dealer firms registered in the United States that are members of the Financial Industry Regulatory Authority (**FINRA**) that are conducting brokerage activities. We are of the view that IIROC should oversee these firms because IIROC rules and supervision govern exchange trading practices and address the risks associated with brokerage activities. Accordingly, we have been working with IIROC and have asked IIROC to consider a framework for the oversight of these firms.

#### ***IIROC Proposal***

The IIROC proposal introduces a new class of IIROC Member, called a “Restricted Dealer Member”, which is intended to migrate firms currently registered as EMDs or restricted dealers carrying out brokerage activities to IIROC membership. Based on this proposal, firms would surrender their EMD or restricted dealer registration and apply for investment dealer registration as well as seek IIROC membership.

#### ***Next Steps***

We look forward to reviewing any comments on the IIROC proposal. At the conclusion of the consultation period, IIROC may make changes to its by-laws and rules. We may also propose changes to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* to expressly limit the types of activities that EMDs can conduct.

## Questions

Please refer your questions to any of the following people:

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# IIROC NOTICE

## **Rules Notice Concept Paper Request for Comments**

Dealer Member Rules

*Please distribute internally to:*

Institutional  
Legal and Compliance  
Operations  
Registration  
Retail  
Senior Management

*Contact:*

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**12-0217**  
**July 12, 2012**

## **IIROC Concept Proposal – Restricted Dealer Member Proposal**

### **1. Introduction**

#### ***Purpose of consultation***

The Investment Industry Regulatory Organization of Canada (“IIROC” or “we”) is seeking comment on a proposal to introduce a new class of IIROC Member, called a “Restricted Dealer Member”, to the IIROC platform. The new class of IIROC Member is being proposed in response to policy concerns relating to the scope of activities being undertaken by exempt market dealers as identified in CSA Staff Notice 31-327 *Broker-Dealer Registration in the Exempt Market Dealer Category*. The proposed framework is intended to facilitate the migration of a number of firms currently carrying out brokerage activity on the CSA platform as Exempt Market Dealers, or in some cases, restricted dealers, to IIROC membership. Migration to the IIROC platform will require these firms to surrender their Exempt Market Dealer (EMD) or restricted dealer registration as the case may be and apply for investment dealer registration under provincial securities law as well as seek IIROC membership.



CSA Staff have also published a further notice on this issue to coincide with the publication of this Concept Paper (see CSA Staff Notice 31-331 *Follow-up to Broker-Dealer Registration in the Exempt Market Dealer Category*) and we have been working collaboratively with the CSA.

In developing the framework, we have consulted with stakeholders, including current IIROC Dealer Members, broker dealer firms registered in the United States that are members of the Financial Industry Regulatory Authority (FINRA), as well as legal and other advisors. This concept paper provides background information and sets out questions intended to solicit stakeholder input.

At the conclusion of the consultation period, IIROC may make changes to its by-laws and Dealer Member Rules. If so, we anticipate that the CSA would also propose changes to National Instrument 31-103 *Registration Requirements, Exemption and Ongoing Registrant Obligations* (NI 31-103) that would further the policy objectives of the IIROC amendments.

### ***Reason for consultation***

The issue of firms conducting brokerage activities through an EMD registration, versus an investment dealer/IIROC member, was highlighted in CSA Staff Notice 31-327. The EMD registration category is relatively new for most provinces and territories in Canada and was designed to allow increased oversight and regulation of market participants operating in the exempt market.

Under NI 31-103 an EMD is permitted to trade in any security that has been, or could be distributed pursuant to a prospectus exemption. The current drafting of NI 31-103 when combined with certain exemptive relief granted by the CSA (for example, relief from the prohibition to provide margin), allows an EMD to provide full brokerage services to “accredited investors”, which includes a class of individual investors meeting certain high income or net-worth criteria as well as investors who would otherwise be considered “Institutional Customers” under IIROC’s Dealer Member Rules.

Since the implementation of NI 31-103, the CSA has received a number of registration applications from U.S. FINRA regulated firms seeking EMD registration. These firms have been registered as restricted dealers, subject to terms and conditions, while the CSA consider this issue. There are also a number of existing EMDs (including firms that have an affiliated IIROC Dealer Member) that are carrying out brokerage activities for accredited investors. We understand that there are approximately 22 existing FINRA members that are either registered as an EMD or restricted dealer or have applications pending for such registration. These firms are conducting a broad range of activities in Canada, including:



- securities brokerage and trading;
- prime brokerage and securities lending;
- execution, clearing and settlement services and related record keeping services; and
- custody of customer funds and securities.

Many of these firms also obtained exemptive relief from the CSA which allows them to routinely lend money, extend credit and provide margin to many of their clients in connection with, and as an integral part of, their brokerage services<sup>1</sup>.

The broad scope of activity being conducted under the EMD registration category raises significant policy and capital market concerns, including:

- the potential erosion of existing and longstanding securities law requirements that mandate that all “investment dealers” must be members of IIROC and therefore subject to additional regulatory requirements (dependent on specific activities undertaken) and robust oversight;
- the potential for regulatory arbitrage across registration platforms as market participants gravitate towards structures that have a less restrictive regulatory environment;
- the potential for regulatory fragmentation and the resulting impact on the integrity and comprehensiveness of regulatory oversight of market participants who have migrated, or may seek to migrate aspects of their securities related business to an EMD platform; and
- the creation of an un-level playing field between firms registered as conventional investment dealers, who carry out their brokerage business under the rule framework and oversight of IIROC, and firms carrying out the same activities registered as EMDs.

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<sup>1</sup>Section 13.12 of NI 31-103 currently provides that an EMD must not lend money, extend credit or provide margin to a client. Investment dealers are exempt from this prohibition. We understand that 11 EMD firms have obtained a CSA exemption from this restriction.



According to CSA Staff Notice 31-327 CSA Staff have concerns with firms conducting brokerage activities, including trading securities on an exchange, or entering into arrangements similar to introducing broker-carrying broker arrangements, through an EMD registration. CSA Staff therefore support the development of an IIROC framework that can be used to facilitate the migration of such firms to the more appropriate investment dealer registration category with attendant IIROC membership.

## **2. The proposed IIROC Restricted Dealer Member category**

### ***Guiding principles underpinning the IIROC Restricted Dealer Member category***

We understand that while the business models and Canadian registration history of existing FINRA/EMD firms vary, the brokerage activities of these firms originated in the United States and the United States continues to be the principal place of business for these firms. In this context, the Canadian brokerage activities of these firms are relatively small compared to their domestic U.S. operations. In deciding where to conduct business outside of the United States, these firms seek business structures that will allow them to utilize a single trading platform and leverage their existing United States-based technology systems, human capital, business and supervisory processes as well as back-office operations. In light of that, and to the extent that existing IIROC by-laws mandate that a member must be a Canadian corporation, IIROC's membership eligibility criteria may be an obstacle to U.S. brokerage firms seeking to do limited business in Canada. We are therefore considering amendments to our by-laws and rules that will create a new class of IIROC member called Restricted Dealer Member that will, in effect, allow a FINRA broker dealer to directly seek cross-membership with IIROC.

The proposed IIROC Restricted Dealer Member category is discussed in more detail below. In developing the proposed IIROC Restricted Dealer Member category, we were guided by the following key principles:

- Globalized markets and increased cross border access offer many potential benefits to Canadian investors, including broader investment choices, lower transaction costs flowing from increased competition and savings derived from the use of global technology platforms, increased efficiency of transactions, improved integration of cross-border trading and technology, greater opportunity for diversification and more access to information about foreign investment opportunities.



- Regulatory overlaps between U.S. and Canadian regulatory regimes can create impediments to cross border trading. Furthermore, overlap can result in burdensome regulatory compliance requirements being placed on market participants without consideration of whether these additional compliance requirements are necessary for investor protection purposes.
- Canada’s capital markets benefit from having U.S. firms participate alongside Canadian firms, therefore curtailing the existing allowable activities of these FINRA/EMD registrants without providing them with a financially viable alternative arrangement could result in these firms abandoning the Canadian capital markets. This scenario would be detrimental to many Canadian clients who have relied on these firms to access global markets on an efficient and cost-effective basis.
- Competition amongst firms conducting the same scope of brokerage activities within Canada must be conducted on a level playing field. If we permit FINRA members to conduct brokerage activities on substituted compliance with FINRA rules, regulatory arbitrage opportunities may result. While some regulatory disparity is inevitable, FINRA members should not be allowed to gain a material competitive advantage due to the application of disparate standards. Any exemptions contemplated in the proposed IIROC framework should balance legitimate competitive and level playing field considerations.
- Institutional Customers and truly sophisticated and wealthy Retail Customers are capable of assessing the risks of doing business with a US entity, subject to similar regulatory requirements.

### ***The proposed IIROC Restricted Dealer Member category***

Appendix A to this Concept Paper provides a detailed description of the proposed IIROC Restricted Dealer Member category. By way of summary, the proposed new IIROC membership category is based on the following key premises, some of which reflect the terms and conditions imposed by the CSA on firms temporarily registered as restricted dealers and the discretionary exemptions previously granted by the CSA:

- ***Comparability of FINRA’s regulatory framework:*** A Restricted Dealer Member will be granted a number of exemptions from having to comply with certain of IIROC’s financial operations requirements based on substituted compliance with applicable FINRA requirements. See the discussion below under “*Financial requirements*” for details on the proposed exemptions. The proposal to permit substituted compliance with FINRA’s requirements for the purposes of this proposal only is based on IIROC





being satisfied that (i) U.S. regulation in these areas is based on comparable regulatory principles and produces comparable regulatory outcomes; and (ii) we have a robust co-operation and information sharing arrangement with FINRA, which Memorandum of Understanding was executed between the two self-regulatory organization in February 2009. A Restricted Dealer Member will otherwise be subject to all other IIROC rules and will be subject to IIROC oversight and compliance reviews.

- ***Restricted Dealer Member eligibility criteria:*** A Restricted Dealer Member must be: (i) an entity formed under U.S. federal or state law; (ii) a member of FINRA; and (iii) a member of the Securities Investor Protection Corporation (SIPC). Canadian client assets held by a Restricted Dealer Member must be insured against loss due to insolvency by SIPC. A Restricted Dealer Member must provide a Canadian client with disclosure explaining the material differences between SIPC and CIPF coverage.
- ***Restricted Dealer Member category of IIROC membership cannot be used by Canadian investment dealers:*** A firm can only apply in the Restricted Dealer Member category if its head office or principal place of business is in the United States and more than 50% of the firm's securities are ultimately owned, directly or indirectly, by foreign entities or residents. The proposed criteria, including the proposed ownership criteria, are intended to prevent Canadian investment dealers and their U.S. affiliates from using the Restricted Dealer Member category.
- ***Scope of business activities carried out in Canada:*** The scope of business activity undertaken by a Restricted Dealer Member in Canada must be consistent with, and not exceed, the scope of business activity approved by FINRA in the firm's membership agreement with FINRA. A Restricted Dealer Member must provide IIROC with notice of any "material changes" in the operation of the firm for which the firm has made an application for approval or non-objection to FINRA under FINRA Rule 1017 and any FINRA disposition for such matter. The notice provided to IIROC must also indicate whether the firm intends on implementing similar material changes to its Canadian operations.
- ***Records of a Restricted Dealer Member:*** A Restricted Dealer Member must provide a written undertaking, in a form acceptable to IIROC, to furnish, upon demand and without any jurisdictional objections, at IIROC's head office (or at any of its regional offices), true, correct and complete copies of any or all of the books and records which the firm is required to make, keep current, maintain, or preserve in accordance with its membership agreement with IIROC.



- **Attornment/Appointment of Agent:** A Restricted Dealer Member will be subject to specific attornment and appointment of agent-for-service provisions as well as associated requirements that are typically imposed on a non-resident firm, including client notice requirements disclosing the firm’s non-resident status.
- **Cost Recovery:** A Restricted Dealer Member must reimburse IIROC for any increased compliance costs flowing from the fact that IIROC’s compliance reviews must be conducted in a foreign jurisdiction. A Restricted Dealer Member will otherwise be subject to all the same fees as a full IIROC Dealer Member, including membership fees.
- **Participating Organization restriction:** A Restricted Dealer Member cannot be a participating organization in a Canadian marketplace overseen by IIROC (a “Participant”). This restriction is intended to maintain the status quo for those Restricted Dealer Members who are currently EMDs. We are considering whether to impose UMIR on those Restricted Dealer Members who electronically route orders to a Participant for execution on a Canadian marketplace.
- **Limited retail customer coverage:** A Restricted Dealer Member will only be able to deal with a prescribed type of “Retail Customer” and “Institutional Customers” as defined under IIROC’s Dealer Member Rules. See “Consultation Questions” below for a further discussion.
- **de minimis threshold for Restricted Dealer status:** In recognition that a Restricted Dealer Member’s principal business operations are located in the United States and full IIROC membership requirements are not being applied to this membership category, a Restricted Dealer Member would be subject to a prescribed *de minimis* threshold. A firm that exceeds the prescribed threshold would be required to transition to a full IIROC Dealer Member subject to all IIROC Dealer Member Rules. See “Consultation Questions” below for a further discussion.
- **Unavailability of the international dealer and adviser exemptions:** A Restricted Dealer Member cannot rely on the international dealer or international adviser exemption set forth in NI 31-103.
- **Financial requirements:** A Restricted Dealer Member will be exempt from a number of IIROC’s financial operations requirements, including requirements governing financial reporting, minimum capital, minimum insurance coverage and margin, on the condition that the firm complies with the comparable U.S./FINRA requirements. The proposed exemptions are intended to mirror existing exemptions granted by the CSA to many of these firms.



- **Introducing/Carrying Broker Relationships:** A Restricted Dealer Member cannot be a carrying broker for a full Dealer Member. A Restricted Dealer Member can be a carrying broker for a Restricted Dealer Member. The proposed restrictions are intended to maintain the status quo of IIROC’s current regulatory requirements governing permissible introducing/carrying broker arrangements and in recognition that the assets held at a Dealer Member and a Restricted Dealer Member will be insured against loss due to insolvency by two different compensation/contingency trust funds (i.e. CIPF and SIPC).
- **Participation Rights:** A Restricted Dealer Member will be eligible to participate on IIROC’s Board, District Councils and advisory committees.
- **Transition to IIROC Membership:** Current FINRA/EMD firms<sup>2</sup> would be transitioned to IIROC membership by making an application to the IIROC Board of Directors as a Restricted Dealer Member through a streamlined membership process. Furthermore, existing partners, directors, officers, employees and agents would be exempt from IIROC’s minimum proficiency requirements, with the exception of those seeking IIROC approval as a Registered Representative or Investment Representative (i.e. client facing approved persons) who would be given a one year transition period to complete the required proficiencies. All individuals, regardless of individual IIROC approval category, sponsored by new firms applying for registration in this category (i.e. firms that are not being transitioned into the category from an existing EMD) will generally be subject to IIROC’s minimum proficiency requirements.<sup>3</sup>

### **Consultation Questions**

While we are seeking comments on the scope and direction of all the elements of the proposed IIROC Restricted Dealer category, we are also soliciting specific comment on the following consultation questions.

1. Should the Restricted Dealer Member proposal be implemented as a grandfathering proposal only to facilitate the migration of existing EMD or restricted dealers (including pending applicants) that have been identified by the CSA as conducting brokerage activity? Or should the Restricted Dealer Member proposal be implemented so that it continues to be available to potentially new entrants to the Canadian marketplace?

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<sup>2</sup> This would include firms who have been temporarily registered by CSA members as restricted dealers as noted in CSA Staff Notice 31-327.

<sup>3</sup> All new applications for IIROC membership (i.e. non-transitioning firms) will be subject to the normal course IIROC membership application process.



2. Do you agree that the proposed IIROC Restricted Dealer Member category should be subject to a de minimis threshold, so that a firm that exceeds the prescribed de minimis threshold would be required to transition to full IIROC Dealer Member status and be subject to all IIROC Dealer Member Rules? If you agree that a de minimis threshold is appropriate, what is the appropriate basis for such a threshold? For example, should the de minimis threshold be premised on any of the following:
- a prescribed number of Canadian clients;
  - a prescribed percentage (e.g. 5%) of the aggregate consolidated gross revenue of the Restricted Dealer Member, and any of its affiliates operating in Canada, derived from the investment dealer activities of the Restricted Dealer Member and its affiliates in Canada, as calculated at the end of the firm’s most recently completed financial year;
  - a prescribed percentage (e.g. 5%) of the aggregate consolidated gross revenue of the Restricted Dealer Member and any of its affiliates operating in Canada, derived from Canadian resident clients in respect of Canadian securities, as calculated at the end of the firm’s most recently completed financial year;
3. Existing FINRA/EMD firms are generally restricted to dealing with only “accredited investors” as defined under National Instrument 45-106 Prospectus and Registration Exemptions (NI 45-106).<sup>4</sup> Firms who have been registered as restricted dealers pending the CSA’s policy review of the issues discussed in CSA Staff Notice 31-327 have instead been restricted to dealing with only “permitted clients”.<sup>5</sup> We are proposing that IIROC Restricted Dealer Members should also be restricted to dealing with only certain types of retail customers, in recognition of the fact that a Restricted Dealer Member will not be subject to all of IIROC’s Dealer Member Rules. We have some concerns that the “accredited investor” threshold for retail customers may be too low for purposes of the proposed Restricted Dealer Member category. Do you agree that a retail customer restriction should be applied to Restricted Dealer Members? If you believe a retail customer restriction is appropriate, what is the appropriate basis for such a restriction?

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<sup>4</sup> An “accredited investor” means: (i) an individual who, either alone or with a spouse, beneficially owns financial assets having an aggregate realizable value that before taxes, but net of any related liabilities, exceeds \$1 million; (ii) an individual whose net income before taxes exceeded \$200,000 in each of the two most recent calendar years or whose net income before taxes combined with that of a spouse exceeded \$300,000 in each of the two most recent calendar years and who, reasonably expects to exceed that net income level in the current calendar year; or (iii) an individual who, either alone or with a spouse, has net assets of at least \$5million.

<sup>5</sup> A “permitted client” means an individual who beneficially owns financial assets having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds \$5 million.



For example, should an IIROC Restricted Dealer Member be restricted so that it can only deal with one of the following types of “retail” customer:

- an “accredited investor” as defined in NI 45-106?
- a “permitted client” as defined in NI 31-103?
- a retail client who beneficially owns financial assets having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds \$10 million, which is the existing threshold for “high net worth non-individuals” in IIROC’s definition of “Institutional Customer”?

Finally, we note that the creation of a new class of IIROC member may have implications for various other Canadian market participants such as clearing agencies and the bodies that oversee such market participants. During the consultation period, IIROC will engage in discussions with these market participants regarding the proposed new Restricted Dealer Member category and its potential implications for their participant rules.

### ***Comments and Submissions***

We invite participants to provide input on the issues outlined in this public concept paper as well as the specific consultation questions posed. You may provide written comments in hard copy or electronic form. The comment period expires within 90 days of the date of this notice. Please address your comments to each of the following:

Rossana Di Lieto  
Vice President, Registration & Complaints

Richard Corner  
Vice President, Dealer Member Policy

Investment Industry Regulatory Organization of Canada  
121 King Street West, Suite 2000  
Toronto, Ontario M5H 3T9

Commenters should be aware that a copy of their comment letter will be made publicly available on the IIROC website ([www.iiroc.ca](http://www.iiroc.ca) under the heading “Policy” and sub-heading “Dealer Proposals/Comments) upon receipt. A summary of the comments contained in each submission will also be included in a future IIROC Notice.

After considering the comments received in response to this Request for Comments, IIROC may publish proposed rules for public comment, including various consequential amendments intended to clearly differentiate Dealer Members from Restricted Dealer Members.

## **Appendix A**

### **Restricted Dealer Member Category**

1. Section 3.5(2) of IIROC By-Law No. 1 to be amended to create a new category of IIROC member called a “Restricted Dealer Member”. A firm is eligible to seek IIROC membership as a Restricted Dealer Member provided:
  - a) The firm is a U.S. entity formed under U.S. federal or state law and whose head office or principal place of business is in the United States and more than 50% of the firm’s securities are ultimately owned, directly or indirectly, by foreign entities or residents.
  - b) The firm is registered under the securities legislation of the United States in a category of registration that permits it to carry on the activities in the United States that registration as an investment dealer would permit it to carry on in the applicable provinces and territories of Canada.
  - c) The firm is a member of the Financial Industry Regulatory Authority (FINRA).
  - d) The firm is a member of the Securities Investor Protection Corporation (SIPC) and Canadian client assets held by the firm are insured against loss due to insolvency by SIPC. A Restricted Dealer Member cannot participate in the Canadian Investor Protection Fund (CIPF). A Restricted Dealer Member must provide to each client resident in Canada a statement in writing disclosing that the firm is a member of SIPC only and that clients are not eligible for CIPF coverage. The disclosure provided to clients must also explain the material differences between SIPC and CIPF coverage.

The creation of the Restricted Dealer Member Category is premised on IIROC and FINRA having a co-operation and information sharing arrangement in effect at all times.

2. The scope of business activity undertaken by a Restricted Dealer Member in Canada must be consistent with, and not exceed, the scope of business activity approved by FINRA in the firm’s membership agreement with FINRA. A Restricted Dealer Member must provide IIROC with notice of any “material changes” in the operation of the firm for which the firm has made an application for approval or non-objection to FINRA under FINRA Rule 1017 and any FINRA disposition for such matter. The notice provided to IIROC must also indicate whether the firm intends on implementing similar material changes to its Canadian operations.



3. A Restricted Dealer Member must provide a written undertaking in a form acceptable to IIROC to furnish, upon demand and without any jurisdictional objections, at IIROC's head office (or at any of its regional offices), true, correct and complete copies of any or all of the books and records which the firm is required to make, keep current, maintain, or preserve in accordance with its membership agreement with IIROC.
4. A Restricted Dealer Member must appoint an agent for service of process in Canada and must not change its agent for service of process in Canada without giving IIROC thirty days' prior written notice of such change by filing a new Submission to Jurisdiction and Appointment of Agent for Service of Process.
5. A Restricted Dealer Member and each of its Approved Persons must irrevocably and unconditionally submit to the non-exclusive jurisdiction of any proceedings arising out of or related to or concerning its membership with IIROC or its activities in Canada as an IIROC Restricted Dealer Member.
6. A Restricted Dealer Member must provide to each client resident in Canada a statement in writing disclosing the non-resident status of the firm, the firm's jurisdiction of residence, the name and address of the agent for service of process of the firm in Canada, and the nature of the risks to clients that legal rights may not be enforceable.
7. A Restricted Dealer Member must pay the increased compliance costs of IIROC due to the firm's location outside of Canada, including the cost of hiring a third party to perform a compliance review on behalf of IIROC. A Restricted Dealer Member will otherwise be subject to all the same fees as a full IIROC Dealer Member, including membership fees.
8. A Restricted Dealer Member cannot be a participating organization in a Canadian marketplace (a "Participant") overseen by IIROC. This restriction is intended to maintain the status quo for those Restricted Dealer Members who are currently EMDs.
9. A Restricted Dealer Member is restricted in the type of "Retail Customers" (as defined in IIROC Dealer Member Rule 1) they can deal with. See specific consultation questions seeking comment on the appropriate retail threshold.



10. A Restricted Dealer Member cannot simultaneously rely on the “international dealer” or “international advisor” registration exemptions set out in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations.
11. A Restricted Dealer Member would be exempt from the following IIROC Dealer Member Rules:
  - a) the requirement to deliver to IIROC the financial filings required under Dealer Member 16.2 on the condition that the firm delivers to IIROC:
    - (i) the analogous filings filed with the SEC and FINRA at the same time these filings are delivered to the SEC and/or FINRA; and
    - (ii) an audited reconciliation of the firm’s consolidated excess net capital (as set out in its audited annual SEC filing) to the firm’s unconsolidated excess net capital (as set out in its FOCUS Report prepared as at the same date);
  - b) the requirement to maintain at all times risk adjusted capital greater than zero calculated in accordance with IIROC’s Form 1 and related capital requirements under Dealer Member Rule 17 on the conditions that the firm:
    - (i) calculates its unconsolidated excess net capital using SEC Form X-17a-5 (the FOCUS Report);
    - (ii) notifies IIROC immediately if at any time its excess unconsolidated net capital as reported in its recently filed unconsolidated FOCUS Report, triggers any FINRA related early warning rules; and
    - (iii) files, on a quarterly basis with IIROC, a segmented unconsolidated income statement which separately discloses:
      - (a) revenue, expense and net income amounts for the Canadian operations of the Restricted Dealer Member;
      - (b) revenue, expense and net income amounts for the United States and other non-Canadian operations of the Restricted Dealer Member; and





- (c) revenue, expense and net income amounts for all operations of the Restricted Dealer Member,

using the same income statement presentation approach as required within the FOCUS Report.

- c) the margin requirements prescribed under IIROC Dealer Member Rule 100 on the condition that the firm complies with FINRA's margin requirements.
  - d) the minimum insurance coverage requirements prescribed under IIROC Dealer Member Rule 400 on the condition that the firm complies with FINRA's minimum insurance requirements.
12. A Restricted Dealer Member cannot be a carrying broker for a full Dealer Member. A Restricted Dealer Member can be a carrying broker for a Restricted Dealer Member.
  13. A Restricted Dealer Member is eligible to participate on IIROC's Board of Directors, District Councils and advisory committees.

***Transition Matters:***

1. FINRA/EMDs would be transitioned to the IIROC platform by making an application to the IIROC Board of Directors as a Restricted Dealer member, but would be subject to a "streamlined" IIROC Staff review process in recognition that the firms are currently registered under provincial securities law.
2. Proficiency requirements for individuals transitioning to the IIROC platform and required to seek IIROC approval:
  - a) Individuals seeking IIROC approval as a Registered Representative or Investment Representative (i.e. client facing approved persons) would be given a transition period of one year to complete the required IIROC proficiencies.
  - b) Individuals seeking IIROC approval as Ultimate Designated Person, Chief Compliance Officer, Supervisor, Director, or Executive and who were carrying out those functions with an Exempt Market Dealer<sup>6</sup> under National

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<sup>6</sup> This would include firms who have been temporarily registered by CSA members as restricted dealers as noted in CSA Staff Notice 31-327.



Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations on the day that the proposed IIROC Restricted Dealer framework and accompanying rules come into force, to be grandfathered from having to complete the required IIROC proficiencies so long as the individual remains approved in the category.

- c) The requirements of Dealer Member Rule 2900 will apply to new Restricted Dealer Members who are not transitioning from a CSA registration. Individuals seeking IIROC approval in a specific category can seek an exemption on a case-by-case basis where equivalency either through alternative education or experience can be demonstrated.
- d) Individuals seeking IIROC approval as a Chief Financial Officer (both those transitioning from an existing EMD or applying for approval with a firm that was not previously registered as an EMD) are exempt from having to complete the Chief Financial Officer Qualifying Examination due to the financial operations related exemptions contemplated for Restricted Dealer Members.