

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

**TRADING IN SECURITIES OF U.S. OVER-THE-COUNTER ISSUERS
AMENDMENTS TO DEALER MEMBER RULE 1300.1**

PROPOSED AMENDMENTS

1. Dealer Member Rule 1300.1 is repealed and replaced as follows:

“1300.1.

Identity and Creditworthiness

- (a) Each Dealer Member shall use due diligence to learn and remain informed of the essential facts relative to every customer and to every order or account accepted.
- (b) When opening an initial account for a corporation or similar entity, the Dealer Member shall:
 - (i) ascertain the identity of any natural person who is the beneficial owner, directly or indirectly, of more than 10% of the corporation or similar entity, including the name, address, citizenship, occupation and employer of each such beneficial owner, and whether any such beneficial owner is an insider or controlling shareholder of a publicly traded corporation or similar entity; and
 - (ii) as soon as is practicable after opening the account, and in any case no later than six months after the opening of the account, verify the identity of each individual beneficial owner identified in (i) using such methods as enable the Dealer Member to form a reasonable belief that it knows the true identity of each individual and that are in compliance with any applicable legislation and regulations of the Government of Canada or any province.
- (c) Subsection (b) does not apply to:
 - (i) a corporation or similar entity that is or is an affiliate of a bank, trust or loan company, credit union, caisse populaire, insurance company, mutual fund, mutual fund management company, pension fund, securities dealer or broker, investment manager or similar financial institution subject to a satisfactory regulatory regime in the country in which it is located

- (ii) a corporation or similar entity whose securities are publicly traded or an affiliate thereof.
- (d) The Corporation may, at its discretion, direct Dealer Members that the exemption in subsection (c) does not apply to some or all types of financial institutions located in a particular country.
- (e) When opening an initial account for a trust, a Dealer Member shall:
 - (i) ascertain the identity of the settlor of the trust and, as far as is reasonable, of any known beneficiaries of more than 10% of the trust, including the name, address, citizenship, occupation and employer of each such settlor and beneficiary and whether any is an insider or controlling shareholder of a publicly traded corporation or similar entity.
 - (ii) as soon as is practicable after opening the account, and in any case no later than six months after the opening of the account, verify the identity of each individual identified in (i) using such methods as enable the Dealer Member to form a reasonable belief that it knows the true identity of each individual and that are in compliance with any applicable legislation and regulations of the Government of Canada or any province.
- (f) Subsection (e) does not apply to a testamentary trust or a trust whose units are publicly traded.
- (g) If a Dealer Member, on inquiry, is unable to obtain the information required under subsections (b)(i) and (e)(i), the Dealer Member shall not open the account.
- (h) If a Dealer Member is unable to verify the identities of individuals as required under subsections (b)(ii) and (e)(ii) within six months of opening the account, the Dealer Member shall restrict the account to liquidating trades and transfers, payments or deliveries out of funds or securities only until such time as the verification is completed.
- (i) No Dealer Member shall open or maintain an account for a shell bank.
- (j) For the purposes of section (i) a shell bank is a bank that does not have a physical presence in any country.
- (k) Subsection (i) does not apply to a bank which is an affiliate of a bank, loan or trust company, credit union, other depository institution that maintains a physical presence in Canada or a foreign country in which the affiliated bank, loan or trust company, credit union, other depository

institution is subject to supervision by a banking or similar regulatory authority

- (l) Any Dealer Member having an account for a corporation, similar entity or trust other than those exempt under subsections (c) and (f) and which does not have the information regarding the account required in subsections (b)(i) and (e)(i) at the date of implementation of those subsections shall obtain the information within one year from date of implementation of subsections (b) and (e).
- (m) If the Dealer Member does not or cannot obtain the information required under subsection (l) the Dealer Member shall restrict the account to liquidating trades and transfers, payments or deliveries out of funds or securities until such time as the required information has been obtained.

U.S. OTC Issuer Trading

- (n) For purposes of subsections (o) and (p), the expression:
“OTC issuer” means an issuer that has:
 - (i) a class of OTC-quoted securities, other than American Depositary Receipts; and
 - (ii) no class of securities listed or quoted on the TSX Venture Exchange, The Toronto Stock Exchange, the Canadian National Stock Exchange, the New York Stock Exchange, the American Stock Exchange or the NASDAQ Stock Market;“OTC-quoted securities” means a class of securities that has been assigned a ticker symbol on the OTC Bulletin Board or the Pink Sheets.
- (o) A Dealer Member must not accept an order to sell securities of an OTC issuer until the Dealer Member has made the inquiries necessary to form a reasonable belief that it knows the true identity of every beneficial owner of those securities. Where a beneficial owner of the securities is not a natural person, the Dealer Member must make the inquiries necessary to form a reasonable belief that it knows the identity of every natural person who owns the beneficial owner.
- (p) Despite subsection (o), a Dealer Member may make an isolated trade in securities of an OTC issuer if:
 - (i) the Dealer Member does not trade securities of OTC issuers for its own account or, with the exception of a trade under subsection (p)(ii), the account of any other person;

- (ii) the trade is on behalf of a client that does not trade in securities of OTC issuers, either generally or occasionally, as part of the client's investing activities; and
- (iii) the Dealer Member records the relevant details of all trades made under this subsection.

Records

- (q) Dealer Members must maintain records of all information obtained and verification procedures conducted under this Rule 1300.1 in a form accessible to the Corporation for a period of five years after the closing of the account to which they relate.

Business Conduct

- (r) Each Dealer Member shall use due diligence to ensure that the acceptance of any order for any account is within the bounds of good business practice.

Suitability Generally

- (s) Subject to Rule 1300.1(u) and 1300.1(v), each Dealer Member shall use due diligence to ensure that the acceptance of any order from a customer is suitable for such customer based on factors including the customer's financial situation, investment knowledge, investment objectives and risk tolerance.

Suitability Determination Required When Recommendation Provided

- (t) Each Dealer Member, when recommending to a customer the purchase, sale, exchange or holding of any security, shall use due diligence to ensure that the recommendation is suitable for such customer based on factors including the customer's financial situation, investment knowledge, investment objectives and risk tolerance.

Suitability Determination Not Required

- (u) Each Dealer Member that has applied for and received approval from the Corporation pursuant to Rule 1300.1(w), is not required to comply with Rule 1300.1(s), when accepting orders from a customer where no recommendation is provided, to make a determination that the order is suitable for such customer.
- (v) Each Dealer Member that executes a trade on the instructions of another Dealer Member, portfolio manager, investment counsel, limited market

dealer, bank, trust company or insurer, pursuant to Section I.B (3) of Rule 2700 is not required to comply with Rule 1300.1(s).

Corporation Approval

- (w) The Corporation, in its discretion, shall only grant such approval where the Corporation is satisfied that the Dealer Member will comply with the policies and procedures outlined in Rule 3200. The application for approval shall be accompanied by a copy of the policies and procedures of the Dealer Member. Following such approval, any material changes in the policies and procedures of the Dealer Member shall promptly be submitted to the Corporation.”