



Canadian Foundation *for*
Advancement *of* Investor Rights

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RE: Request for Comment - Requirement to Disclose Membership in IIROC as a Dealer Member (IIROC Notice 14-0265)

FAIR Canada is pleased to offer comments on the Investment Industry Regulatory Organization of Canada's ("IIROC") republication for comment of certain previously proposed amendments to the Dealer Member Rules relating to proposed requirements to disclose membership in IIROC as a dealer member as well as proposed changes to the new IIROC membership disclosure policy (the "Disclosure Policy") and proposed changes to the Canadian Investor Protection Fund ("CIPF") Disclosure Policy as set out in IIROC Notice 14-0265 (collectively the "Proposals").

FAIR Canada is a national, charitable organization dedicated to putting investors first. As a voice of Canadian investors, FAIR Canada is committed to advocating for stronger investor protections in securities regulation. Visit www.faircanada.ca for more information.

FAIR Canada Comments and Recommendations – Executive Summary:

1. FAIR Canada supports efforts to promote and raise awareness of IIROC, its regulatory function, and the fact of dealer members' membership in the Canadian Investor Protection Fund ("CIPF"), thereby helping investors assess the regulatory status of member firms and/or individual registrants.
2. FAIR Canada is disappointed that IIROC has significantly watered down the obligation for Dealer Members to disclose membership in IIROC through the new Disclosure Policy by removing the requirement to include the IIROC Logo on client trade confirmations and account statements. This proposed change will significantly limit the degree of client awareness that IIROC is the regulator of their dealer member and that the dealer member is a regulated entity. FAIR Canada questions the adequacy of the cost/benefit analysis that has been performed in order to arrive

at the determination that “...the additional costs incurred by Dealer Members to display the IIROC Logo on client account statements and client trade confirmations are not warranted.” Please see our comments below.

3. We support the amendments to the proposed CIPF Disclosure Policy and provide comments below.
4. FAIR Canada suggests that IIROC work with other regulators to make the check registration system user friendly by having a comprehensive, “one stop” national system for the investing public¹ and continue to devote resources to promoting awareness of its AdvisorReport to the investing public to encourage Canadian investors to verify the background of IIROC-regulated individuals from whom they may wish to seek advice or other investment services. Prioritizing such initiatives could enhance investor protection by increasing the percentage of investors who check registration before investing, thereby reducing the incidence of fraud.

1. Public Awareness

- 1.1. FAIR Canada supports efforts to promote and raise awareness of IIROC, its regulatory function, and dealer members’ membership in the Canadian Investor Protection Fund (“CIPF”), thereby helping investors assess the regulatory status of member firms and/or individual registrants and that the dealer member is a regulated entity.
- 1.2. In particular, it is important for investors to know about the additional regulatory requirements and oversight IIROC provides and the fact that IIROC member firms are backed by a compensation fund, namely the CIPF. This is particularly important given the lack of a comprehensive national compensation scheme for investors in Canada.
- 1.3. Additionally, the information provided by IIROC’s AdvisorReport is of great assistance to investors in undertaking a background check on advisors. Comments regarding improving the check registration system are provided below.

2. Proposed Changes to the new IIROC Membership Disclosure Policy

Proposed Disclosure Policy Weakened

- 2.1. FAIR Canada supports IIROC’s introduction of an obligation for Dealer Members to disclose membership in IIROC through the Disclosure Policy. However, FAIR Canada is disappointed that IIROC has significantly watered down the obligation for Dealer Members to disclose membership in IIROC through the new Disclosure Policy by removing the requirement to include the IIROC Logo on client trade confirmations and account statements. This proposed change will significantly limit the degree of client awareness that IIROC is the regulator of their dealer member and familiarity with IIROC.

¹ See FAIR Canada’s recent fraud report for detailed recommendations regarding the check registration system at page 53, available online at <http://faircanada.ca/wp-content/uploads/2014/08/FINAL-A-Canadian-Strategy-to-Combat-Investment-Fraud-August-2014-0810.pdf>.

- 2.2. Client trade confirmations and account statements are the documents that clients receive on a periodic basis and retain for their records and if the IIRO Logo is not required to be placed on these documents, it stands to reason that significantly fewer clients will be made aware that IIROC is the regulator of their dealer member.

CRM2 and the Disclosure Policy

- 2.3. Given the implementation of CRM2's new requirements, including new cost disclosure and performance requirements, clients will be receiving and reviewing key information that they have not, to date, ever received – such as how their investments have performed and how much they have paid in fees (including fees paid as a result of trailing commissions). The industry has recently given significant focus to how this disclosure may enhance the client relationship and how the industry needs to prepare for these conversations. Correspondingly, it would be helpful if clients were made aware on these same statements as to who regulates their dealer member and/or individual registrant with whom they interact should they have need to contact the regulator to obtain information, make an inquiry, make a complaint or otherwise. This is in furtherance of the public interest and in furtherance of the stated purpose of the amendments, namely the education and protection of investors.²
- 2.4. Given the changes being made to trade confirmations and account statements as a result of CRM2, the addition of the IIROC Logo to these documents should be incrementally less costly than if it were the only change being contemplated. Even if this were not true, the costs to include the IIROC Logo cannot be substantial.

Cost/Benefit Analysis Deficient

- 2.5. FAIR Canada questions the adequacy of the cost/benefit analysis that has been performed in order to arrive at the determination that "...the additional costs incurred by Dealer Members to display the IIROC Logo on client account statements and client trade confirmations are not warranted."³ In particular, we note the following:
- a) there is a complete absence in the consultation materials as to what CSA Staff comments are on this issue although such comments are referred to in support of the changes;
 - b) there are no details provided as to what costs were considered versus what were the benefits considered to arrive at this determination;
 - c) IIROC has made the Proposed Amendments based on three comments letters out of 6 comment letters received which is not a very fulsome response to a request for comments;
 - d) No information on those three comments were provided and do not appear to be in the public domain other than as inadequately summarized in Attachment G in the Proposals;
 - e) FAIR Canada does not agree with the argument made by some of the comment letters (as summarized in Attachment G) that including the IIROC Logo on the client account statements or client trade confirmations, in addition to the logo of the dealer member and the CIPF logo, will result in "logo overload". On the contrary, it will allow the client to know that the dealer member is "regulated by" IIROC.
 - f) FAIR Canada cautions that according to the OECD, "it may be appropriate to proceed with regulation even though the costs appear to be greater than the benefits – this may occur if

² IIROC Notice 14-0265, at page 6.

³ IIROC Notice 14-0265, at page 3.

most benefits are gained by the target group.”⁴ We note that much of the intended benefit of securities regulation will accrue to less-sophisticated, vulnerable consumers while many of the costs will primarily affect members of the investment industry (although some of these costs may be passed on to consumers), and, therefore, it is important not to simply determine whether the benefits outweigh the costs. Consideration must be given to the distribution of the costs and benefits of any regulatory proposal.

- g) Given that the costs of securities regulation are much more readily quantifiable than the benefits, there is a real risk that a strict approach to attempting to ensure that regulation is only made when the benefits of the regulation are larger than the costs it imposes may result in policy that does not provide an adequate level of investor protection.

- 2.6. FAIR Canada recommends that IIROC, at a minimum, provide transparency as to the cost-benefit analysis that was performed, and urges IIROC to consider the above-noted comments and reassess its cost-benefit analysis.

IIROC Decal at the Dealer Member’s Place of Business

- 2.7. Clients no longer have to physically go to the dealer member’s business location in order to interact with their dealer member and do so far less frequently. Requiring the displaying of the IIROC Decal at each place of business location to which the public has access will assist in raising public awareness but has significant limitations, on its own.

IIROC Logo on the Homepage of a Dealer Member’s Website or on the Main Page

- 2.8. Requiring the inclusion of the IIROC Logo on the homepage of a dealer member’s website or, if part of a combined financial institution group website, on the main page for the Dealer Member is important. Currently, often important information that regulators require, such as Fund Facts or Plan Summary documents are hard to locate on a firm’s website even if the user is aware that they are required to be available. Quite often these documents are buried in the legal documents or regulatory documents section which itself is often hard to navigate to. FAIR Canada urges IIROC to ensure that the IIROC Logo is quickly found when go to the homepage or mainpage of the dealer member.

Distribution of the IIROC Official Brochure

- 2.9. FAIR Canada supports the requirement under the Disclosure Policy to distribute the current version of the IIROC Official Brochure (the “Brochure”) to (1) new clients at time of account opening; and (2) existing clients, upon request. However, we continue to recommend that to further the objectives of the Proposals, the Brochure should be sent to all existing clients (either electronically or in hard copy) upon the adoption of the Proposals. Alternatively, we would recommend that Dealer Members be required to make existing clients aware that the Brochure is available upon request.

⁴ Organisation for Economic Co-operation and Development, “Introductory Handbook for Undertaking Regulatory Impact Analysis (RIA)” (Version 1 – October 2008), online: <<http://www.oecd.org/gov/regulatory-policy/44789472.pdf>> at page 7..

3. Proposed Revised CIPF Disclosure Policy

- 3.1. FAIR Canada supports the change to require dealer members to distribute the CIPF Official Brochure to new clients at the time of account opening rather than make it available to its clients upon request as this will increase awareness of CIPF coverage and clients' understanding of what this coverage means to them.
- 3.2. FAIR Canada also supports mandatory display of the CIPF membership symbol on member websites as this will also increase client awareness of the coverage that is provided by CIPF.
- 3.3. FAIR Canada supports the required change that permits dealer members to provide explanations about CIPF and its protections to clients so long as these are approved in advance by CIPF rather than only permit the dealer member to include the CIPF official symbol or CIPF official explanatory statement. This may lead to more public awareness and understanding of what protections to clients such coverage entails. Such communications must be strictly controlled however.

4. AdvisorReport

- 4.1. FAIR Canada also suggests that IIROC continue to promote awareness of its AdvisorReport to the investing public to encourage Canadian investors to verify the background of IIROC-regulated individuals from whom they may wish to seek advice or other investment services.
- 4.2. FAIR Canada suggests that IIROC work with other regulators to make the check registration system user friendly. It is recommended that Canadian regulators immediately take steps to provide an informative, comprehensive, "one-stop" national system for investors to check registration, background information (including proficiency and disciplinary history), SRO membership for all firms registered with securities regulators and members of SROs, and to identify non-securities licenses for individuals licensed under different regimes (such as insurance agents) with different sponsoring firms⁵.

⁵ See FAIR Canada's recent fraud report for detailed recommendations regarding the check registration system at page 53, available online at <http://faircanada.ca/wp-content/uploads/2014/08/FINAL-A-Canadian-Strategy-to-Combat-Investment-Fraud-August-2014-0810.pdf>.

- 4.3. Prioritizing such initiatives could enhance investor protection by increasing the percentage of investors who check registration before investing, thereby reducing the incidence of fraud.

We thank you for the opportunity to provide our comments and views in this submission. We welcome its public posting and would be pleased to discuss this letter with you at your convenience. Feel free to contact Neil Gross at 416-214-3408/ neil.gross@faircanada.ca or Marian Passmore at 416-214-3441/ marian.passmore@faircanada.ca.

Sincerely,



Canadian Foundation for Advancement of Investor Rights