

# IIROC NOTICE

## Rules Notice Notice of Approval/Implementation

Dealer Member Rules

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**19-0101**

**June 6, 2019**

## Amendments to Provisions Respecting Order Execution Only Service Eligibility and Adviser Identifiers

### Executive Summary

On May 28, 2019, the applicable securities regulatory authorities approved amendments to Dealer Member Rule 3200 (**Amendments**). The Amendments will:

- prohibit a Dealer Member that provides order execution only services (**OES Dealer**) from providing an order execution only service (**OES**) to a client that is acting and, registered or exempted from registration as a dealer (**registered dealer**)
- expand the requirement for identifiers by requiring OES Dealers to assign unique identifiers to:
  - an entity that is registered or exempted from registration as an adviser in accordance with securities laws (**registered adviser**) and has been granted trading authority, direction or control over an OES account (**control**)
  - an entity that is in the business of trading securities in a foreign jurisdiction in a manner analogous to an adviser (**foreign adviser equivalent**) and that has control over an OES account
- require OES Dealers to ensure that the unique identifiers are included on all orders sent to a marketplace<sup>1</sup> for an account over which the registered adviser or foreign adviser equivalent has control.

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<sup>1</sup> "Marketplace" refers to any marketplace where IIROC is the regulation services provider.



The Amendments were published for comment on July 26, 2018 in IROC Rules Notice [18-0141](#) – Rules Notice – Request for Comments – DMR – *Proposed Provisions Respecting Order Execution Only Service Eligibility and Adviser Identifiers (July 2018 Proposal)*. All relevant background information, including the description and impact of the Amendments, is set out in Notice 18-0141.

### **Comments Received**

We received two comment letters in response to Notice 18-0141. Attachment C to this Notice provides a summary of the public comments received and our responses. As a result of the comments, we have made non-material revisions to the July 2018 Proposal, as set out in Attachment C and summarized below.

### **Description of the Non-Material Changes**

#### *Limitation to Dealer Members that trade on a Marketplace*

We received a comment that certain order execution only services do not provide for execution on a marketplace and that these types of order execution only services would not raise the same regulatory arbitrage or market integrity concerns that the Amendments are meant to address.

We agree with this view and have modified the Amendments to clarify that Dealer Members are prohibited from providing an order execution only services to registered dealers that trade on a marketplace for which IROC acts as a regulation services provider.

#### *Potential Conflict with Section 8.4 of NI 31-103*

We received a comment from the CSA that there may be a potential conflict between the requirements in the July 2018 Proposal and the requirements set under section 8.4 of NI 31-103. We have added a provision to carve out persons that are subject to section 8.4 of NI 31-103 from the Amendments to eliminate this conflict.

### **Attachments**

Attachment A – Amendments to Dealer Member Rule (**DMR**) 3200

Attachment B – Amendments to Proposed Dealer Member Plain Language Rule (**PLR**) 3200

Attachment C – Summary of comments received and IROC's responses

### **Implementation**

The Amendments will come into force on September 6, being 3 months after the publication of this Notice.

***IROC Notice 19-0101 – Rules Notice – Notice of Approval/Implementation – DMR – Amendments to Provisions Respecting Order Execution Only Service Eligibility and Adviser Identifiers***



## Attachment A

### DMR Amendments

Dealer Member Rule 3200 is hereby amended as follows:

1. adding the following definition of “adviser” after the definition of “automated order system”:  
“In this Rule “adviser” means a person that is not an individual and, is registered or is exempted from registration, as an adviser in accordance with applicable securities legislation.”
2. adding the following definition of “foreign adviser equivalent”:  
“In this Rule, “foreign adviser equivalent” means a person that is not an individual and is in the business of trading securities in a foreign jurisdiction in a manner analogous to an adviser.”
3. adding the following as section A.1.1:  
**“1.1 Prohibited Clients**  
(1) The Dealer Member may not provide an order-execution only service to any person that is not an individual and is acting as and, registered or exempted from registration, as a dealer in accordance with securities laws, and trades on a Marketplace for which the Corporation is the regulation services provider.”  
(2) Despite subsection (1), a Dealer Member may provide an order-execution only service to a person that is exempted from registration as a dealer under section 8.4 of National Instrument 31-103.”
4. deleting “: (a)” after “provider” in subparagraph A.5(a)(a)
5. replacing “,” with “.” after “calendar month” in subparagraph A.5(a)(a)
6. deleting subparagraphs A.5(a)(b) and A.5(a)(c)
7. adding the following as section A.5.1:  
**“ 5.1 Identification of Advisers and Foreign Adviser Equivalents**  
(a) The Dealer Member must ensure that a unique identifier is assigned to any adviser that trades on a Marketplace for which the Corporation is the regulation services provider and:  
(i) is itself a client of the Dealer Member, or  
(ii) has been granted trading authority, direction or control over an account of a client of the Dealer Member.  
(b) The Dealer Member must ensure that a unique identifier is assigned to any foreign adviser equivalent that trades on a Marketplace for which the Corporation is the regulation services provider and:  
(i) is itself a client of the Dealer Member, or  
(ii) has been granted trading authority, direction or control over an account of a client of the Dealer Member.  
(c) The Dealer Member must provide each unique identifier assigned pursuant to subsections A.5.1(a) and (b) and the name of the corresponding firm to the Corporation.  
(d) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider by or on behalf of a firm for whom a unique identifier must be assigned pursuant to subparagraphs A.5.1 (a)(i) and (b)(i),



- contains the identifier assigned to that firm.
- (e) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider by or on behalf of an account over which an adviser or a foreign adviser equivalent has been granted trading authority, direction or control and an identifier was assigned pursuant to subparagraphs A.5.1(a)(ii) or A.5.1(b)(ii), contains the identifier assigned to that firm.
  - (f) Despite subsection A.5(c):
    - (i) If an adviser is assigned a unique identifier pursuant to subparagraph A.5.1(a)(ii), each order entered by or on behalf of an account over which that adviser has been granted trading authority, direction or control on a Marketplace for which the Corporation is the regulation services provider must contain the unique identifier assigned to that adviser, or
    - (ii) If a foreign adviser equivalent is assigned a unique identifier pursuant to subparagraph A.5.1(b)(ii), each order entered by or on behalf of an account over which that foreign adviser equivalent has been granted trading authority, direction or control on a Marketplace for which the Corporation is the regulation services provider must contain the unique identifier assigned to that foreign adviser equivalent.”
8. adding the following as section B.2.3:
- “2.3 Prohibited Clients**
- (1) The Dealer Member may not provide an order-execution only service to any person that is not an individual and is acting as and, registered or exempted from registration, as a dealer in accordance with securities laws, and trades on a Marketplace for which the Corporation is the regulation services provider.
  - (2) Despite subsection (1), a Dealer Member may provide an order-execution only service to a person that is exempted from registration as a dealer under section 8.4 of National Instrument 31-103.”
9. deleting “: (a)” after “provider” in subparagraph B.6(a)(a)
10. replacing “,” with “.” after “calendar month” in subparagraph B.6(a)(a)
11. deleting paragraphs B.6(a)(b) and B.6(a)(c)
12. adding the following as section B.6.1:
- “6.1 Identification of Advisers and Foreign Adviser Equivalents**
- (a) The Dealer Member must ensure that a unique identifier is assigned to any adviser that trades on a Marketplace for which the Corporation is the regulation services provider and:
    - (i) is itself client of the Dealer Member, or
    - (ii) has been granted trading authority, direction or control over an account of a client of the Dealer Member.
  - (b) The Dealer Member must ensure that a unique identifier is assigned to any foreign adviser equivalent that trades on a Marketplace for which the Corporation is the regulation services provider and:
    - (i) is itself a client of the Dealer Member, or
    - (ii) has been granted trading authority, direction or control over an account of a client of the Dealer Member.



- (c) The Dealer Member must provide each unique identifier assigned pursuant to subsections B.6.1(a) and (b) and the name of the corresponding firm to the Corporation.
- (d) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider by or on behalf of a firm for whom a unique identifier must be assigned pursuant to subparagraphs B.6.1 (a)(i) and (b)(i) contains the identifier assigned to that firm.
- (e) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider by or on behalf of an account over which an adviser or foreign adviser equivalent has been granted trading authority, direction or control, and an identifier was assigned pursuant to subparagraphs B.6.1(a)(ii) or B.6.1(b)(ii) contains the identifier assigned to that firm.
- (f) Despite subsection B.6(c):
  - (i) If an adviser is assigned a unique identifier pursuant to subsection B.6.1(a), each order entered by or on behalf of an account, over which that adviser has been granted trading authority, control or direction, on a Marketplace for which the Corporation is the regulation services provider, must contain the unique identifier assigned to that adviser, or
  - (ii) If a foreign adviser equivalent is assigned a unique identifier pursuant to subsection A.6.1(b), each order entered by or on behalf of an account, over which that foreign adviser equivalent has been granted trading authority, direction or control, on a Marketplace for which the Corporation is the regulation services provider, must contain the unique identifier assigned to that foreign adviser equivalent.”.



## Attachment B

### PLR Amendments

1. Rule 3201 is amended by adding the following as subsection (3):
  - “(3) The following terms have the meaning set out below when used in Part D – Order Execution Only Accounts:
    - (i) “adviser” means a *person* that is not an *individual* and is registered as an adviser in accordance with *securities laws*.
    - (ii) “foreign adviser equivalent” means a *person* that is not an *individual* and is in the business of trading securities in a foreign jurisdiction in a manner analogous to an *adviser*.”
2. Rule 3241 is amended by:
  - a. Replacing “.” with “,” after “time to time” in subparagraph 1(ii)(b)
  - b. adding the following as paragraph (1)(iii):

“(iii) not provide *order execution only account* services to any *person* that is not an *individual* and is acting as and, registered or exempted from registration as a dealer in accordance with *securities laws*, and trades on a *Marketplace* for which *IIROC* is the regulation services provider.
  - c. adding the following as section 1.1:

“(1.1) Despite paragraph (1)(iii), a *Dealer Member* may provide an *order execution only account* service to a *person* that is exempted from registration as a dealer under section 8.4 of National Instrument 31-103.”
  - d. deleting “: (i)” after “provider” in subparagraph (4)(i)
  - e. replacing “,” with “.” after “calendar month” in subparagraph (4)(i)
  - f. deleting subparagraphs (4)(ii) and (4)(iii)
  - g. deleting subsection (7) and adding the following:
    - “(7) The *Dealer Member* must ensure that a unique identifier is assigned to any *adviser* that trades on a *Marketplace* for which *IIROC* is the regulation services provider and that:
      - (i) is itself a *client* of the *Dealer Member*, or
      - (ii) has been granted trading authority, direction or control over an account of a *client* of the *Dealer Member*.
    - (8) The *Dealer Member* must ensure that a unique identifier is assigned to any *foreign adviser equivalent* that trades on a *Marketplace* for which *IIROC* is the regulation services provider and that:
      - (i) is itself a *client* of the *Dealer Member*, or
      - (ii) has been granted trading authority, direction or control over an account of a *client* of the *Dealer Member*.
    - (9) The *Dealer Member* must provide each unique identifier assigned pursuant to subsection 3241(7) and subsection 3241(8) and the name of the corresponding firm to *IIROC*.
    - (10) The *Dealer Member* must ensure that each order entered on a *Marketplace* for which *IIROC* is the regulation services provider by or on behalf of a firm for whom a unique identifier must be assigned pursuant to subsection 3241(7)(i) or subsection 3241(8)(i) contains the unique identifier assigned to that firm.
    - (11) The *Dealer Member* must ensure that each order entered on a *Marketplace* for which



*IIROC* is the regulation services provider by or on behalf of an account over which an *adviser* or *foreign adviser equivalent* has been granted trading authority, direction or control and an identifier was assigned pursuant to paragraph 3241(7)(ii) or paragraph 3241(8)(ii) contains the identifier assigned to that firm.

(12) Despite subsection (6):

(i) if an *adviser* is assigned a unique identifier pursuant to paragraph 3241(7)(ii), each order entered by or on behalf of an account, over which that *adviser* has been granted trading authority, direction or control, on a *Marketplace* for which *IIROC* is the regulation services provider must contain the unique identifier assigned to that *adviser*, or

(ii) if a *foreign adviser equivalent* is assigned a unique identifier pursuant to paragraph 3241(8)(ii), each order entered by or on behalf of an account over which that *foreign adviser equivalent* has been granted trading authority, direction or control, on a *Marketplace* for which *IIROC* is the regulation services provider must contain the unique identifier assigned to that *foreign adviser equivalent*.

(13) A *Dealer Member* approved by *IIROC* to provide *order execution only account* services within either a separate legal entity or a separate business unit, must ensure that:

(i) its order-entry systems and records are capable of labeling all account documentation, including monthly statements and confirmations, as “order execution only accounts” or other similar phrase, and

(ii) the client monthly statements of its *order execution only account* services are not consolidated with any other client account statements, including those of any other business unit of the *Dealer Member* or of the *Dealer Member* itself.”.



Attachment C

**Comments Received in Response to  
IIROC Notice 18-0141 – Rules Notice - Request For Comments – Dealer Member Rules**

***Proposed Provisions Respecting Order Execution Only Service Eligibility and Adviser Identifiers***

On July 26, 2018, IIROC issued Notice 18-0141 requesting comments on Proposed Provisions Respecting Order Execution Only Service Eligibility and Adviser Identifiers (**July 2018 Proposal**). IIROC received comments on the Proposed Amendments from:

The Canadian Advocacy Council for Canadian Institute CFA Societies (**CAC**)

OANDA (**OANDA**)

Copies of these comments are publicly available on IIROC’s website ([www.iiroc.ca](http://www.iiroc.ca)). The following table summarizes these comments and our responses:

Text of Proposed DMR Amendments in July 2018 Proposal Marked to Reflect Adoption of Revised Proposal	Summary of Comments	IIROC Response
<p><b>RULE 3200 MINIMUM REQUIREMENTS FOR DEALER MEMBERS SEEKING APPROVAL UNDER RULE 1300.1(T) TO OFFER AN ORDER-EXECUTION ONLY SERVICE</b></p> <p>The following Rule sets forth the documentary, procedural and systems requirements for Dealer Members to receive approval to accept orders from a customer without a suitability determination</p>		

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<p>where no recommendation was provided by the Dealer Member.</p> <p>In this Rule, “order-execution only service” means the acceptance and execution of orders from customers for trades that the Dealer Member has not recommended and for which the Dealer Member takes no responsibility as to the appropriateness or suitability of orders accepted or account positions held.</p> <p>In this Rule “automated order system” has the same meaning as defined in National Instrument 23-103 <i>Electronic Trading and Direct Electronic Access to Marketplaces</i>.</p> <p>In this Rule “adviser” means a person that is not an individual and, is registered or is exempted from registration, as an adviser in accordance with applicable securities legislation.</p> <p>In this Rule “foreign adviser equivalent” means a person that is not an individual and is in the business of trading securities in a foreign jurisdiction in a manner analogous to an adviser.</p>		
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<p><b>A. Minimum requirements for Dealer Members offering solely an order-execution only service, either as the Dealer Member’s only business or through a separate business unit of the Dealer Member</b></p> <p><b>1. Business Structure and Compensation</b></p> <p>(a) The Dealer Member must operate either as a legal entity or a separate business unit which provides order-execution only services.</p> <p>(b) The legal entity or separate business unit of the Dealer Member offering an order execution only service must not allow its order execution only service clients to:</p> <p>(i) use their own automated order system to generate orders to be sent to the Dealer Member or send orders to the Dealer Member on a pre-determined</p>		
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<p>basis; or</p> <p>(ii) manually send orders or generate orders to the Dealer Member that exceed the threshold on the number of orders as set by the Corporation from time to time.</p> <p>(c) If operated as a separate business unit of the Dealer Member, the order-execution only service must have separate letterhead, accounts, registered representatives and investment representatives and account documentation.</p> <p>(d) The registered representatives and investment representatives of the Dealer Member or separate business unit of the Dealer Member shall not be compensated on the</p>		
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<p>basis of transactional revenues.</p>		
<p><b>1.1 Prohibited Clients</b>  <u>(1) The Dealer Member may not provide an order-execution only service to any person that is not an individual and is acting as and, registered or exempted from registration, as a dealer in accordance with securities laws, and trades on a Marketplace for which the Corporation is the regulation services provider.</u>  <u>(2) Despite subsection (1), a Dealer Member may provide an order-execution only service to a person that is exempted from registration as a dealer under section 8.4 of National Instrument 31-103.</u></p>	<p>CAC is supportive of the purpose of the July 2018 Proposal as it is important that registered dealers be subject to all of IIROC’s rules and that they not access channels that allow them to avoid suitability obligations.</p>	<p>We acknowledge the comments.</p>
	<p>OANDA does not believe any regulatory arbitrage or market integrity concerns apply to order execution only services that do not allow clients to transact on a marketplace.</p>	<p>We agree and have amended the wording to clarify that Dealer Members are prohibited from providing an order execution only service to registered dealers that trade on a marketplace for which IIROC acts as a regulation services provider.</p>



<p><b>5. Identification of Certain Clients</b></p> <p>(a) The Dealer Member must ensure that a client identifier is assigned to each client that trades on a Marketplace for which the Corporation is the regulation services provider whose trading activity on Marketplaces for which the Corporation is the regulation services provider exceeds a daily average of 500 orders per trading day in any calendar month.</p> <p>(b) The Dealer Member must provide each client identifier assigned pursuant to Rule A.5(a) and the name of the corresponding client to the Corporation.</p> <p>(c) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services</p>		



<p>provider by or on behalf of a client for whom a client identifier must be assigned pursuant to Rule A.5(a) contain the client identifier assigned to that client.</p> <p><b>5.1 Identification of Advisers and Foreign Adviser Equivalents</b></p> <p>(a) The Dealer Member must ensure that a unique identifier is assigned to any adviser that trades on a Marketplace for which the Corporation is the regulation services provider and:</p> <ul style="list-style-type: none"><li>(i) is itself a client of the Dealer Member, or</li><li>(ii) has been granted trading authority, direction or control over an account of a client of the Dealer Member.</li></ul> <p>(b) The Dealer Member must ensure that a unique identifier is assigned to any foreign adviser equivalent that</p>	<p>CAC is supportive of amendments to require order execution only dealers to assign identifiers to certain entities to help IIROC in its surveillance over advisers and better address the risks of electronic trading.</p>	<p>We acknowledge the comment.</p>
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<p>trades on a Marketplace for which the Corporation is the regulation services provider and:</p> <ul style="list-style-type: none"><li>(i) is itself a client of the Dealer Member, or</li><li>(ii) has been granted trading authority, direction or control over an account of a client of the Dealer Member.</li></ul> <p>(c) The Dealer Member must provide each unique identifier assigned pursuant to subsection A.5.1(a) and (b) and the name of the corresponding firm to the Corporation.</p> <p>(d) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider by or on behalf of a firm for whom a unique identifier must be assigned pursuant to paragraphs A.5.1 (a)(i)</p>		
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<p>and (b)(i), contains the identifier assigned to that firm.</p> <p>(e) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider by or on behalf of an account over which an adviser or a foreign adviser equivalent has been granted trading authority, direction or control and an identifier was assigned pursuant to subparagraphs A.5.1.(a)(ii) or (b)(ii), contains the identifier assigned to that firm.</p> <p>(f) Despite subsection A.5(c):</p> <p>(i) If an adviser is assigned a unique identifier pursuant to paragraph A.5.1 (a)(ii), each order entered by or on behalf of an account over which that adviser has been granted trading</p>		
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<p>authority, direction or control on a Marketplace for which the Corporation is the regulation services provider must contain the unique identifier assigned to that adviser, or</p> <p>(ii) If a foreign adviser equivalent is assigned a unique identifier pursuant to paragraph A.5.1(b)(ii), each order entered by or on behalf of an account over which that foreign adviser equivalent has been granted trading authority, direction or control on a Marketplace for which the Corporation is the regulation services provider must contain the unique identifier assigned to that foreign adviser equivalent.</p>		
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**B. Minimum requirements for Dealer Members offering both an advisory and an order-execution only service**

**1. Terminology**

All references to the basis of trades in procedures, documents and reports under this Rule must use the terms “recommended” or “non-recommended”. In particular, designating trades as solicited or unsolicited will not be accepted as complying with the requirements of this Rule.

**2. Business Structure**

The Dealer Member offering both an advisory and an order execution only service must not allow its order execution only service clients to:

- (a) Use their own automated order system to generate orders to be sent to the Dealer Member or send orders to the Dealer Member on a pre-determined basis; or
- (b) Manually send orders or generate orders to the Dealer Member that



<p>exceed the threshold on the number of orders as set by the Corporation from time to time.</p> <p><b>2.3 Prohibited Clients</b></p> <p><u>(1) The Dealer Member may not provide an order-execution only service to any person that is not an individual and is acting as and, registered or exempted from registration, as a dealer in accordance with securities laws, and trades on a Marketplace for which the Corporation is the regulation services provider.</u></p> <p><u>(2) Despite subsection (1), a Dealer Member may provide an order-execution only service to a person that is exempted from registration as a dealer under section 8.4 of National Instrument 31-103.</u></p>		
<p><b>6. Identification of Certain Clients</b></p> <p>(a) The Dealer Member must ensure that a client identifier is assigned to each order-execution only service client that</p>		



<p>trades on a Marketplace for which the Corporation is the regulation services provider whose trading activity on Marketplaces for which the Corporation is the regulation services provider exceeds a daily average of 500 orders per trading day in any calendar month.</p> <p>(b) The Dealer Member must provide each client identifier assigned pursuant to Rule B.6(a) and the name of the corresponding client to the Corporation.</p> <p>(c) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider by or on behalf of a client for whom a client identifier must be assigned pursuant to</p>		
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<p>Rule B.6(a) contain the client identifier assigned to that client.</p>		
<p><b>6.1 Identification of Advisers and Foreign Adviser Equivalents</b></p> <p>(a) The Dealer Member must ensure that a unique identifier is assigned to each adviser that trades on a Marketplace for which the Corporation is the regulation services provider and:</p> <ul style="list-style-type: none"><li>(i) is itself a client of the Dealer Member, or</li><li>(ii) has been granted trading authority, direction or control over an account of a client of the Dealer Member.</li></ul> <p>(b) The Dealer Member must ensure that a unique identifier is assigned to each foreign adviser equivalent that trades on a Marketplace for which the Corporation is the regulation services provider and:</p>		



<p>(i) is itself a client of the Dealer Member, or</p> <p>(ii) has been granted trading authority, direction or control over an account of a client of the Dealer Member.</p> <p>(c) The Dealer Member must provide each unique identifier assigned pursuant to subsections B.6.1(a) and (b) and the name of the corresponding firm to the Corporation.</p> <p>(d) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider by or on behalf of a firm for whom a unique identifier must be assigned pursuant to subparagraphs B.6.1 (a)(i) and (b)(i) contains the identifier assigned to that firm.</p>		
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<p>(e) The Dealer Member must ensure that each order entered on a Marketplace for which the Corporation is the regulation services provider by or on behalf of an account over which an adviser or foreign adviser equivalent has been granted trading authority, direction or control, and an identifier was assigned pursuant to subparagraph B.6.1(a)(ii) or B.6.1(b)(ii) contains the identifier assigned to that firm.</p> <p>(f) Despite subsection B.6(c):</p> <p>(i) If an adviser is assigned a unique identifier pursuant to Rule B.6.1 (a), each order entered by or on behalf of an account, over which that adviser has been granted trading authority, direction or</p>		
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<p>control, on a Marketplace for which the Corporation is the regulation services provider, must contain the unique identifier assigned to that adviser, or</p> <p>(ii) If a foreign adviser equivalent is assigned a unique identifier pursuant to subsection A.6.1(b), each order entered by or on behalf of an account, over which that foreign adviser equivalent has been granted trading authority, direction or control, on a Marketplace for which the Corporation is the regulation services provider, must contain the unique identifier assigned to that foreign adviser equivalent.</p>		
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