

13.1.2 Notice of Commission Approval – Housekeeping Amendments to IDA Regulation 100.20 and Notes and Instructions to Schedule 9 Regarding Securities Concentration Charge

THE INVESTMENT DEALERS ASSOCIATION (IDA)
AMENDMENTS TO IDA REGULATION 100.20 AND
NOTES AND INSTRUCTIONS TO SCHEDULE 9
REGARDING SECURITIES CONCENTRATION CHARGE

NOTICE OF COMMISSION APPROVAL

I OVERVIEW

A Current Rules

Current Regulation 100.20 and Schedule 9 of Form 1 require that a securities concentration charge be provided when the amount loaned exposure to a particular issuer exceeds a threshold. The threshold is based on the Member firm's risk adjusted capital level. The Notes and Instructions to Schedule 9 codify the formula and procedures to be followed.

B The Issue

In determining whether a securities concentration charge applies, the current rule wording requires that the concentration threshold be calculated as a fraction "of the Member's risk adjusted capital, before securities concentration charge plus minimum capital". This wording can be interpreted in two ways yielding two different numerical results as follows:

- **a fraction** of the risk adjusted capital before securities concentration charge + minimum capital

or

- **a fraction** of the sum of (risk adjusted capital before securities concentration charge + minimum capital)

The latter interpretation was intended. Wording changes are necessary to make this interpretation clear.

C Objective

The objective of these housekeeping amendments is to clarify the formula for calculating the concentration charge in Regulation 100.20 and Schedule 9.

D Effect of Proposed Rules

The proposed amendment is housekeeping in nature and will have no impact on market structure, competition, costs of compliance and other rules.

II DETAILED ANALYSIS

A Present Rules, Relevant History and Proposed Policy

A detailed review of present rules and relevant history was not considered necessary due to the housekeeping nature of the proposed amendments. The proposed wording amendments, included as Attachment #1, seek to ensure that the securities concentration threshold amount is calculated as:

- **a fraction** of the sum of (risk adjusted capital before securities concentration charge + minimum capital)

B Issues and Alternatives Considered

No other alternatives were considered.

C Comparison with Similar Provisions

A comparison with similar regulations in the US and UK was not considered necessary due to the housekeeping nature of the proposed amendments.

D Systems Impact of Rule

It is believed that the proposed amendments will have no impact in terms of capital market structure, member versus non-member level playing field, competition generally, costs of compliance and conformity with other rules.

The Bourse de Montréal is also in the process of passing this amendment. Implementation of this amendment will therefore take place once both the IDA and the Bourse de Montréal have received approval to do so from their respective recognizing regulators.

E Best Interests of the Capital Markets

The Board has determined that the housekeeping rule is not detrimental to the best interests of the capital markets.

F Public Interest Objective

The amendment is believed to be housekeeping in nature as it is intended to clarify existing requirements and will not impact the public.

III COMMENTARY

A Filing in Other Jurisdictions

This proposed amendment will be filed for approval in Alberta, British Columbia, Ontario and Quebec and will be filed for information in Manitoba, Nova Scotia and Saskatchewan.

B Effectiveness

As indicated in the previous sections, the objective of the proposal is to ensure that the securities concentration charge is calculated correctly and it is believed that the wording revisions proposed provide this clarity required for this purpose.

C Process

These proposed amendments were developed and recommended for approval by the FAS Capital Formula Subcommittee and recommended for approval by the FAS Executive Committee and the Financial Administrators Section ("FAS").

IV SOURCES

References:

- IDA Regulation 100.20
- IDA Form 1, Schedule 9 Notes and Instructions.
- Proposed amendments to IDA Form 1, Schedule 9 relating to the calculation of a securities concentration charge for positions in broad based index securities

V OSC REQUIREMENT TO PUBLISH FOR COMMENT

The IDA is required to publish for comments the accompanying amendments.

The Association has determined that the entry into force of the proposed amendments is housekeeping in nature. As a result, a determination has been made that these proposed rule amendments need not be published for comment.

Questions may be referred to:

Jane Tan, MBA
Information Analyst, Regulatory Policy,
Investment Dealers Association of Canada
Suite 1600, 121 King West
Toronto, Ontario
M5H 3T9
Tel: 416-943-6979
E-mail: jt@ida.ca

Arif Mian
Specialist, Regulatory Policy,
Investment Dealers Association of Canada
Suite 1600, 121 King West
Toronto, Ontario
M5H 3T9
Tel: 416-943-4656
E-mail: amian@ida.ca

**INVESTMENT DEALERS ASSOCIATION OF CANADA
HOUSEKEEPING CHANGES TO REGULATION 100.20 AND SCHEDULE 9**

BOARD RESOLUTION

THE BOARD OF DIRECTORS of the Investment Dealers Association of Canada hereby makes the following amendments to the By-laws, Regulations, Forms and Policies of the Association:

1. Adding the words “the sum of” in the front of “the Member’s risk adjusted capital, before securities concentration charge” and replacing the word “plus” with the word “and” in front of “minimum capital” in the following lines of sections within Regulation 100.20:
 - lines 3, 4 and 6 and 7 of Regulation 100.20(c)(i);
 - lines 13 and 14 of Regulation 100.20(c)(ii); and
 - lines 2 and 3 of Regulation 100.20(d).
2. Adding the words “the sum of” in the front of “the Member’s risk adjusted capital” and the words “before securities concentration charge and minimum capital” immediately thereafter in lines 6 and 7 of sections within Regulation 100.20(d).
3. Replacing the words “Vice-President, Financial Compliance” with “appropriate Joint Regulatory Bodies” in Regulation 100.20(f).
4. Adding the words “the sum of” or “the sum of the firm’s” in the front of “the firm’s Risk Adjusted Capital, before securities concentration charge” or “Risk Adjusted Capital, before securities concentration charge”, as appropriate, and replacing the word “plus” with the word “and” in front of “minimum capital” in the following lines of notes within the Notes and Instructions to Schedule 9 of Form 1:
 - lines 3 and 4 of Note 9(c);
 - lines 10, 11, 13 and 14 of Note 10(a);
 - lines 4, 5, 7 and 8 of Note 10(b);
 - lines 3, 4, 7 and 8 of Note 10(c);
 - lines 3 and 4 of Note 10(d)(ii);
 - lines 3 and 4 of Note 10(d)(iii); and
 - lines 4 and 5 of Note 10(d)(iv).

PASSED AND ENACTED BY THE Board of Directors this 19th day of January 2005, to be effective on a date to be determined by Association staff.

INVESTMENT DEALERS ASSOCIATION OF CANADA
HOUSEKEEPING CHANGES TO REGULATION 100.20 AND SCHEDULE 9

BLACKLINE COPY

100.20 Concentration of Securities

- (c) (i) Subject to subclause (ii) below, where the total amount loaned by a Member on any one security for all customers and/or inventory accounts, as calculated hereunder, exceeds an amount equal to two-thirds of the sum of the Member's risk adjusted capital, before securities concentration charge ~~plus~~ and minimum capital, as most recently calculated for more than five business days, an amount equal to 150% of the excess of the amount loaned over two-thirds of the sum of the Member's risk adjusted capital, before securities concentration charge ~~plus~~ and minimum capital (Statement B, Line 6 of Form 1), shall be deducted from the risk adjusted capital of the Member. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the security for which the charge is incurred.
- (ii) Notwithstanding subclause (i) above, where the loaned security issued by
- (A) the Member, or
- (B) a company, where the accounts of a Member are included in the consolidated financial statements and where the assets and revenues of the Member constitute more than 50% of the consolidated assets and 50% of the consolidated revenue, respectively, the company, based on the amounts shown in the audited consolidated financial statements of the company and the Member for the preceding fiscal year,
- and the total amount loaned by the Member on any one such security, as calculated hereunder, exceeds an amount equal to one third of the Member's risk adjusted capital before securities concentration charge plus minimum capital as most recently calculated for more than five business days, an amount equal to 150% of the excess of the amount loaned over one-third of the sum of the Member's risk adjusted capital before securities concentration charge ~~plus~~ and minimum capital shall be deducted from the risk adjusted capital of the Member.
- (d) Where the total amount loaned by a Member on any one security for all customers and/or inventory accounts as calculated hereunder exceeds an amount equal to one half of the sum of the Member's risk adjusted capital before securities concentration charge ~~plus~~ and minimum capital as most recently calculated, and the amount loaned on any other security which is being carried by a Member for all customers and/or inventory accounts as calculated hereunder, exceeds an amount equal to one-half of the sum of the Member's risk adjusted capital before securities concentration charge and minimum capital as most recently calculated for more than five business days, an amount equal to 150% of the excess of the amount loaned on the other security over one-half of the Member's risk adjusted capital shall be deducted from the risk adjusted capital of the Member. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the security for which the charge is incurred.
- (e) For the purposes of calculating the concentration charges as required by paragraphs (c) and (d) above, such calculations shall be performed for the first five securities in which there is a concentration.
- (f) Where the capital charges described in subsections (c) and (d) would result in a capital deficiency or a violation of the rule permitting designation in early warning pursuant to By-law 30, the Member must report the over-concentration situation to the ~~Vice President, Financial Compliance~~ appropriate Joint Regulatory Bodies on the date the over-concentration first occurs.

Form 1, Schedule 9 - Concentration of Securities, Notes and Instructions
[Amended sections only]

SCHEDULE 9
NOTES AND INSTRUCTIONS

Amount Loaned - Note 9(c)

- "(c) If the loan value of an issuer position (net of issuer securities required to be in segregation/safekeeping) does not exceed one-half (one-third in the case of an issuer position which qualifies under either Note 9(a) or 9(b) below) of the sum of the firm's Risk Adjusted Capital before securities concentration charge ~~plus~~ and minimum capital (Stmt. B, line 4) as most recently calculated, the completion of the column titled "Adjustments in arriving at Amount Loaned" is optional. However, nil should be reflected for the concentration charge."

Concentration Charge – Notes 10(a) through (d)

- “10. (a) Where the Amount Loaned reported relates to securities issued by
- (i) the member, or
 - (ii) a company, where the accounts of a member are included in the consolidated financial statements and where the assets and revenue of the member constitute more than 50% of the consolidated assets and 50% of the consolidated revenue, respectively, of the company, based on the amounts shown in the audited consolidated financial statements of the company and the member for the preceding fiscal year

and the total Amount Loaned by a firm on such issuer securities exceeds one-third of the sum of the firm's Risk Adjusted Capital before securities concentration charge ~~plus~~and minimum capital (Stmt. B, line 4) , as most recently calculated, a concentration charge of an amount equal to 150% of the excess of the Amount Loaned over one-third of the sum of the firm's Risk Adjusted Capital before securities concentration charge ~~plus~~and minimum capital (Stmt. B, line 4) is required unless the excess is cleared within five business days of the date it first occurs. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the issuer security(ies) for which such charge is incurred.

- (b) Where the Amount Loaned reported relates to non-marginable securities of an issuer held in a cash account(s), where loan value has been extended pursuant to the weighted market value calculation set out in Schedule 4, Note 9, and the total Amount Loaned by a firm on such issuer securities exceeds one-third of the sum of the firm's Risk Adjusted Capital before securities concentration charge ~~plus~~and minimum capital (Stmt. B, line 4) , as most recently calculated, a concentration charge of an amount equal to 150% of the excess of the Amount Loaned over one-third of the sum of the firm's Risk Adjusted Capital before securities concentration charge ~~plus~~and minimum capital (Stmt. B, line 4) is required unless the excess is cleared within five business days of the date it first occurs. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the issuer security(ies) for which such charge is incurred.
- (c) Where the Amount Loaned reported relates to arm's length marginable securities of an issuer (i.e., securities other than those described in note 9(a), or 9(b)), and the total Amount Loaned by a firm on such issuer securities exceeds two-thirds of the sum of the firm's Risk Adjusted Capital before securities concentration charge ~~plus~~and minimum capital (Stmt. B, line 4) , as most recently calculated, a concentration charge of an amount equal to 150% of the excess of the Amount Loaned over two-thirds of the sum of the firm's Risk Adjusted Capital before securities concentration charge ~~plus~~and minimum capital (Stmt. B, line 4) is required unless the excess is cleared within five business days of the date it first occurs. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the issuer security(ies) for which such charge is incurred.
- (d) Where:
 - (i) The firm has incurred a concentration charge for an issuer position under either note 9(a) or 9(b) or 9(c); or
 - (ii) The Amount Loaned by a firm on any one issuer (other than issuers whose securities may be subject to a concentration charge under either Note 9(a) or 9(b) above) exceeds one-half of the sum of the firm's Risk Adjusted Capital before securities concentration charge ~~plus~~and minimum capital (Stmt. B, line 4) , as most recently calculated; **and**
 - (iii) The Amount Loaned on any **other issuer** exceeds one-half (one-third in the case of issuers whose securities may be subject to a concentration charge under either Note 9(a) or 9(b) above) of the sum of Risk Adjusted Capital before securities concentration charge ~~plus~~and minimum capital (Stmt. B, line 4) ; **then**
 - (iv) A concentration charge on such other issuer position of an amount equal to 150% of the excess of the Amount Loaned on the **other issuer** over one-half (one-third in the case of issuers whose securities may be subject to a concentration charge under either Note 9(a) or 9(b) above) of the sum of the firm's Risk Adjusted Capital before securities concentration charge ~~plus~~and minimum capital (Stmt. B, line 4) is required unless the excess is cleared within five business days of the date it first occurs. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the security(ies) for which such charge is incurred.