

IIROC NOTICE

Rules Notice

Request for Comments

Dealer Member Rules

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Contact:

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15-0217

September 24, 2015

Request for Comments - Research Report Quiet Periods

Summary of Nature and Purpose of Amendments

The Investment Industry Regulatory Organization of Canada (“IIROC”) Board of Directors (“Board”) recently approved the publication, for comment, of amendments (“Amendments”) to Requirement 14 of Dealer Member Rule 3400 (“Rule 3400”). The Amendments reduce the quiet periods from 40 days to 10 days following the date of the offering in respect of initial public offerings and from 10 days to 3 days following the date of the offering in respect of secondary offerings.¹

The Amendments are implemented immediately, effective September 25, 2015, as set out in IIROC Notice of Approval - Immediate Implementation 15-0216.

The primary objective of the Amendments is to create a regulatory framework that ensures a level playing field for research report dissemination in the context of cross-border transactions between Canada and the United States (“US”). The Amendments would prevent a substantial risk of material harm to investors, market participants and Dealer Members by harmonizing with requirements in the US.

The current timeframes for quiet periods were initially intended to allow independent analysis to reach investors before dissemination of research reports by Dealer Members who participated in an offering by acting as manager or co-manager. However, IIROC believes that a reduced quiet period

¹ The meaning of the “date of the offering” for different types of offering is set out in IIROC Guidance Notice [12-0369](#). For example, the date of the offering for a prospectus offering is the date of the final receipt for the prospectus.

would not disadvantage investors. The Amendments therefore apply to both domestic and Canada-US cross-border offerings.

Issues and Specific Amendments

Analysis

Requirement 14 of Rule 3400 was initially published as Requirement 14 of IDA Policy No.11. It was included in order to reduce a Dealer Member's ability to improperly reward the issuer for its underwriting business by publishing favorable research after completion of the offering. The quiet period timeframes were based on equivalent securities regulations in the US, specifically NASD Rule 2711.

The Financial Industry Regulatory Authority ("FINRA") has recently published FINRA Notice 15-30, which contains an implementation date of September 25, 2015 in respect of amendments to reduce the US quiet periods from 40 to 10 days in respect of initial public offerings and 10 to 3 days in respect of secondary offerings.

In support of this change, FINRA has noted that the lengthier quiet periods were intended to allow analysis and company valuations from the public before members most vested in the success of an offering disseminated their research reports. US regulators have recognized the importance of timely dissemination of information and concluded that a shorter quiet period would not disadvantage investors. Instead, they note the cost to investors when they are deprived of information and analysis during quiet periods.

Similarly, IIROC believes that harmonizing the quiet period with the US would preserve Canadian investor participation in cross-border transactions, and that a uniform quiet period for domestic Canadian offerings is equally appropriate.

Current Rules

Currently, Rule 3400 Requirement 14 prescribes a quiet period of 40 days following the date of the offering in respect of initial public offerings and 10 days following the date of the offering in respect of secondary offerings. They do not apply to the dissemination of information regarding a significant event affecting the issuer within the relevant 40- or 10-day period.

Rules

Amendments

The Amendments reduce the quiet periods, which apply to dissemination of research reports by Dealer Members who participate in an offering by acting as manager or co-manager, from:

- (a) 40 days to 10 days following the date of the offering, in respect of initial public offerings;
and
- (b) 10 days to 3 days following the date of the offering, in respect of secondary offerings.

A copy of the Amendments is included as Attachment A.

Impact

The comments below address the potential impact on various stakeholders, in the event the Amendments are not implemented immediately.

Impact on Investors

There is a substantial risk of material harm to investors if the Amendments are not implemented immediately.

Specifically, in the context of cross-border initial public offerings and secondary offerings, Canadian investors would be deprived of research, when compared to corresponding US investors, for an additional 30- or 7-day period, respectively, as the case may be. The cost of being deprived of information and analysis during quiet periods would therefore be disproportionately borne by Canadian investors.

Furthermore, certain issuers may cease to make available offerings to the Canadian market, in order to avoid the complication of misaligned quiet periods. This lack of access would directly result in material harm to Canadian investors.

Impact on Canadian Capital Markets

To the extent that issuers and Dealer Members cease to make relevant offerings available in Canada, in order to avoid the complication of misaligned quiet periods, this would result in material harm to Canadian capital markets.

Impact on Dealer Members

To the extent that Dealer Members continue to participate in cross-border offerings, it is unlikely that US firms will agree to extend their quiet periods and therefore there is likely to be a bifurcated research distribution, resulting in:

- (a) an administrative, cost and compliance burden on Dealer Members in administering a different research dissemination period; and
- (b) a barrier to ongoing participation in such offerings.

Alternatives

IIROC has considered the possibility of maintaining the status quo, but rejected this alternative for the reasons above.

IIROC has also considered the possibility of, in addition to making the Amendments, conducting a complete review and potential amendment of Rule 3400 in order to prescribe specific conflict management requirements. In considering whether to pursue this alternative or the approach we are proposing, we have consulted with various IIROC advisory committees. In these consultations, Dealer Members expressed the concern that a lengthier quiet period represents an unnecessary

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regulatory and cost burden to Dealer Members. IIAC has equally submitted a letter which supports the reduction of quiet periods in alignment with the recently approved corresponding FINRA rules.

IIROC has decided to pursue the proposed changes to quiet periods as a preliminary change and is considering updating Rule 3400 in its entirety in light of the passage of time since its original implementation. This review will be conducted in accordance with IIROC's policy priorities.

Classification of Amendments

The purpose of the Amendments is to:

- (a) foster fair, equitable and ethical business standards and practices; and
- (b) prevent a substantial risk of material harm to investors, market participants and Dealer Members.

Due to the extent and substantive nature of the Amendments, they have been classified as Public Comment Rule proposals.

Effect of the Amendments

The Amendments will not have any significant negative effects on Dealer Members, market structure or competition. Furthermore, it is not expected that the Amendments will give rise to any incremental technology or compliance costs.

The Amendments do not impose any burden or constraint on competition or innovation that is not necessary or appropriate in furtherance of IIROC's mandate.

The IIROC Board has determined that the Amendments are not contrary to public interest.

Request for public comment

Comments are sought on the Amendments. Comments should be made in writing. Two copies of each comment letter should be delivered within 30 days from the publication date of this notice.

One copy should be addressed to the attention of:

Marina Ripoche
Senior Policy Counsel, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
Suite 2000, 121 King Street West
Toronto, Ontario, M5H 3T9

The second copy should be addressed to the attention of:

Manager of Market Regulations
Ontario Securities Commission
19th Floor, Box 55
20 Queen Street West
Toronto, Ontario, M5H 3T9
marketregulation@osc.gov.on.ca

Those submitting comment letters should be aware that a copy of their comment letter will be made publicly available on the IIROC website (www.iiroc.ca) under the heading “Notices” and sub-heading “Dealer Member Rules – Request for Comments”.

Questions may be referred to:

Marina Ripoche
Senior Policy Counsel, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
416.943.5896
mripoche@iiroc.ca

Attachments

Attachment A - Amendments – Requirement 14 of Dealer Member Rule 3400

ATTACHMENT A

AMENDMENTS TO DEALER MEMBER RULE 3400, REQUIREMENT 14 (QUIET PERIODS)

1. Requirement 14 of Dealer Member Rule 3400 is amended as follows:

“14. No Dealer Member may issue a research report for an equity or equity related security regarding an issuer for which the Dealer Member acted as manager or co-manager of

(i) an initial public offering of equity or equity related securities, for ~~40~~10 calendar days following the date of the offering; or

(ii) a secondary offering of equity or equity related securities, for ~~10~~3 calendar days following the date of the offering;

but requirement 14(i) and (ii) do not prevent a Dealer Member from issuing a research report concerning the effects of significant news about or a significant event affecting the issuer within the applicable ~~40~~10 or ~~10~~3 day period.”