

Ontario Securities Commission

Policy 4.3 (33-101)

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OSC POLICY 4.3 (33-101)

SELF-DIRECTED RRSP'S AND OTHER PLANS RECOGNIZED BY THE COMMISSION FOR PURPOSES OF THIS POLICY STATEMENT AND ADMINISTERED BY BROKERS OR INVESTMENT DEALERS ON BEHALF OF AUTHORIZED TRUSTEES

The Ontario Securities Commission will not object to arrangements between brokers or investment dealers and authorized trustees concerning the administration of self-directed registered retirement savings plans and other plans recognized by the Commission for the purpose of Policy Statement 4.3, the terms of which allow brokers or investment dealers to retain possession of any assets of a trust, (the "Plans") provided that:

1.
 - (a) the authorized trustee is a financial institution as defined in the by-laws and regulations of the self-regulatory organizations of which the broker or investment dealer is a member unless the Commission and the self-regulatory organizations rule otherwise; and
 - (b) primary liability to planholders for any breach of trust remains that of the authorized trustee;
2. physical control over plan securities on hand is maintained by designated employees of the broker or investment dealer;
3. subject to any additional requirements of the authorized trustee:
 - (a) securities held by a broker or investment dealer for the authorized trustee on behalf of its individual planholders are held in safekeeping for the authorized trustee in a location reserved solely for those securities. Such securities may only be released on instruction of the authorized trustee or the planholder;
 - (b) while such securities are held in safekeeping for the authorized trustee within such safekeeping system, they may be held in bulk segregation on behalf of its individual planholders and identified as being so held in the broker's or investment dealer's security position record, customers' ledger and the statement of account provided to the planholder and to the authorized trustee. Securities that are held by a depository approved by the self-regulatory organization of which the broker or investment dealer is a member should be held in a separate plan segregation account (by security). Where a broker or investment dealer is a member of a recognized depository, the use of that

depository for lodging of securities held for plan accounts is recommended;
and

- (c) the securities required to be segregated be determined at least twice each week;
4. the means, be it numerical code or otherwise, by which accounts of planholders for self-directed plans are identified is clearly distinguishable from the manner of identifying other types of accounts and each account is itself identified as being that of the authorized trustee for the planholders as beneficial owner, each being named. All such accounts should be kept in a separate section of the customer account records specifically reserved for such plan accounts;
5. all cash received by the dealer for or on behalf of plan accounts is transferred to the authorized trustee by the next business day except that cash required or received in connection with the settlement of securities transactions shall be transferred from the dealer to the authorized trustee or from the authorized trustee to the dealer as the case may be, on the settlement or value date specified in the confirmation of trade;
6. the agreement between the broker or investment dealer and the authorized trustee incorporates the protection afforded planholders by clause 3(a) above and prohibits the broker or investment dealer from using assets from the authorized trustee's plan account for the planholders to pay claims the broker or investment dealer may have against that particular planholder's non-plan accounts other than claims in respect of administration fees or administration expenses relating to the plan account;
7. where the terms and conditions of the plan contain investment restrictions required under the *Income Tax Act (Canada)*, the broker or investment dealer shall advise each planholder (i) that there are consequences pursuant to the *Income Tax Act (Canada)* on the acquisition or holding by the account of non-qualified investments or excess foreign property and (ii) on a monthly basis, if non-qualified investments or excess foreign properties have been acquired for the account or if previously acquired qualified investments have become unqualified;
8. all of the regulatory authorities under which the authorized trustee operates have acknowledged that they have received all legal opinions, tax rulings or other documentation the authority has requested from the authorized trustee;
9. approval of the self-regulatory organization of which the broker or investment dealer is a member has been obtained prior to the arrangement being implemented and the National Examiner of the National Contingency Fund has been notified;
10.
 - (a) a report is prepared by the broker or investment dealer on a monthly basis identifying, by security, the quantity required to be segregated but which is not so segregated. The report shall be in a form acceptable to the Commission. Such report shall be filed with the examiners of the self-regulatory organization in duplicate within 10 business days of the last business day of each month. The examiners shall file a copy of this report with the National Examiner of the National Contingency Fund. The frequency of this report will be reviewed periodically by the Commission;
 - (b) the foregoing report will not be required by a broker or investment dealer where the self-regulatory organization has reviewed the systems and procedures pertaining to the operation of the plan and is satisfied that such

systems and procedures are operating in accordance with the requirements of this policy. Such review shall be conducted as part of every regular examination of the broker or investment dealer carried out by the self-regulatory organization.

(Former Policy 3-55: (Interim) first published (1981) 1 O.S.C.B. 22E; final (1982) 3 O.S.C.B. 47E; published as 4.3 (1982) 4 O.S.C.B. 408E; revised (1984) 7 O.S.C.B. 3879.)