
B. Ontario Securities Commission

B.1 Notices

B.1.1 Notice of Commission Approval of OSC Rule 81-510 Dealer Rebates of Trailing Commissions

**NOTICE OF COMMISSION APPROVAL OF
OSC RULE 81-510
DEALER REBATES OF TRAILING COMMISSIONS**

April 3, 2025

Introduction

The Ontario Securities Commission (the **OSC**) has made OSC Rule 81-510 *Dealer Rebates of Trailing Commissions* (the **Rule**) in Ontario.

Under the OEO trailing commission ban,¹ which came into effect on June 1, 2022 (the **Effective Date**),

- (a) investment fund managers (**IFMs**) are prohibited from paying trailing commissions where the dealer is not required to make a suitability determination in connection with a client's purchase and ongoing ownership of prospectus qualified mutual fund securities, and
- (b) dealers are prohibited from soliciting or accepting trailing commissions from an IFM in connection with mutual fund securities held in an account of a client of the dealer if the dealer is not required to make a suitability determination, including, among others, order-execution only (**OEO**) dealers.

The Rule sets out the requirements for the use of dealer rebates of trailing commissions. The Rule is intended to codify the temporary exemptive relief issued on March 18, 2022, by Ontario Instrument 81-508 *Temporary Exemptions from the OEO Trailer Ban to Facilitate Dealer Rebates of Trailing Commissions and Client Transfers* (the **OSC Blanket Order**), which was then extended by OSC Rule 81-509 *Extension to Ontario Instrument 81-508 Temporary Exemptions from the OEO Trailer Ban to Facilitate Dealer Rebates of Trailing Commissions and Client Transfers* (**OSC Rule 81-509**).

The OSC Blanket Order and OSC Rule 81-509 provide temporary exemptive relief for OEO dealers and IFMs to facilitate dealer rebates of trailing commissions to clients holding mutual fund securities in OEO dealer accounts and to process client transfers. The OSC Blanket Order was in effect from June 1, 2022 to November 30, 2023 and was extended by OSC Rule 81-509 for an additional 18-month period from December 1, 2023 to May 31, 2025.

The text of the Rule is contained in Annex A of this notice and is also available on the OSC website at www.osc.ca.

Substance and Purpose

On June 1, 2022, the Canadian Securities Administrators (**CSA**) adopted amendments to National Instrument 81-105 *Mutual Fund Sales Practices* to implement the OEO trailing commission ban. The amendments comprise the CSA's policy response to the investor protection and market efficiency issues identified with the payment and acceptance of trailing commissions where no suitability determination was required.

To facilitate implementation of the OEO trailing commission ban, the CSA issued exemptive relief for IFMs and OEO dealers to facilitate dealer rebates of trailing commissions to clients holding mutual fund securities in OEO dealer accounts and to process client transfers.

To comply with the OEO trailing commission ban, IFMs and OEO dealers transitioned mutual fund securities held in OEO dealer accounts prior to the Effective Date for which trailing commissions are paid (**Current Holdings**) as follows:

- (a) switched to a non-trailing commission paying class or series of the same mutual fund,

¹ CSA Notice of Amendments to National Instrument 81-105 *Mutual Fund Sales Practices* and Related Consequential Amendments - Prohibition of Mutual Fund Trailing Commissions Where No Suitability Determination Was Required (September 17, 2020): https://www.osc.ca/sites/default/files/2020-11/csa_20200917_81-105_mutual-fund-sales.pdf

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- (i) where the only difference is a lower management fee and where there are no tax consequences for effecting such a switch (a **Like-to-Like Switch**), or
- (ii) where the only differences are a lower management fee and a difference in distribution policy and/or currency, and where there are no tax consequences for effecting such a switch (a **Like-to-Similar Switch**), or
- (b) provided with a rebate by the IFM, equal to the amount of the trailing commission that would otherwise be paid by the IFM to the OEO dealer in respect of the client's trailing commission paying mutual fund securities, for as long as the client holds the securities in an OEO dealer account (a **Management Fee Rebate**), and
- (c) where a Like-to-Like Switch or a Like-to-Similar Switch (each, a **Switch**) is not available or a Management Fee Rebate is not used, exemptive relief from the OEO trailing commission ban would be required to facilitate a rebate to a client by an OEO dealer, equal to the amount of the trailing commission paid by the IFM to the OEO dealer in respect of the client's trailing commission paying mutual fund securities, for as long as the client holds the trailing commission paying mutual fund securities in the OEO dealer account (a **Dealer Rebate**), which would result in a better outcome for a client compared to a redemption, which may have tax consequences.

For client-initiated transfers of trailing commission paying mutual fund securities to OEO dealers on or after the Effective Date (**Client Transfers**), where a Switch or a Management Fee Rebate is not available or used, respectively, or where a Switch is available but the trailing commission paying mutual fund securities remain subject to a redemption fee under a deferred sales charge option (**DSC**), exemptive relief from the OEO trailing commission ban would be required to facilitate a Dealer Rebate, which would result in a better outcome for a client, compared to a redemption or payment of a DSC redemption fee.

As Client Transfers are largely a manual process, OEO dealers and IFMs require a period of up to 45 days (the **Grace Period**), during which exemptive relief from the OEO trailing commission ban would be required, in order for the OEO dealer to determine whether a Switch is available, or a Management Fee Rebate can be used, or failing which, provide a Dealer Rebate, which would result in a better outcome for a client compared to a redemption or payment of a DSC redemption fee. During the Grace Period, a Switch will generally be executed by OEO dealers within 15 days of the date of the Client Transfer, following which, within the remaining 30 days of the Grace Period, the OEO dealer will assess whether the Switch has been properly processed, failing which the OEO dealer will take action to ensure the relevant switch is properly processed. Any trailing commissions paid by IFMs in respect of the Client Transfers and accepted by OEO dealers during the Grace Period will be rebated to the client by way of a Dealer Rebate.

OSC Rule 81-509 will cease to be effective on May 31, 2025. However, the exemptive relief in OSC Rule 81-509 is still required after May 31, 2025 because:

- (a) for Current Holdings where a Switch or a Management Fee Rebate was not available or used, respectively, a Dealer Rebate should continue to be provided for a client, which is a better outcome for the client compared to a redemption, which may have tax consequences,
- (b) for Client Transfers:
 - (i) a Grace Period should continue to be provided for the OEO dealer to determine whether a Switch is available, or a Management Fee Rebate can be used, or failing which, provide a Dealer Rebate, which is a better outcome for a client compared to a redemption, which may have tax consequences, or payment of a DSC redemption fee, if applicable,
 - (ii) for the OEO dealer to provide a Dealer Rebate to a client for the Grace Period, and
 - (iii) for the OEO dealer to provide a Dealer Rebate to a client after the Grace Period, for as long as the client holds the securities in an OEO dealer account, where a Switch or a Management Fee is not available or used, respectively, or where a Switch is available but the trailing commission paying mutual fund securities remain subject to a redemption fee under a DSC option.

The temporary exemptive relief provided by the OSC Blanket Order and OSC Rule 81-509 cannot be subject to a further extension under Ontario securities laws. Without the Rule, there would be an unlevel playing field for IFMs and OEO dealers in Ontario as equivalent blanket orders issued by the other CSA jurisdictions continue to be in effect and are either (a) not subject to an expiration date or (b) subject to an expiration date but can be further extended.

Authority for the Rule

The following provisions of the *Securities Act* (Ontario) (the **Act**) provide the Commission with authority to adopt the Rule:

- Subparagraph 143(1)2(ii) of the Act authorizes the Commission to make rules prescribing requirements for registrants including requirements that are advisable for the prevention or regulation of conflicts of interest;

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- Paragraph 143(1)13 of the Act authorizes the Commission to make rules regulating trading or advising in securities to prevent trading or advising that is, among other things, unfairly detrimental to investors;
- Paragraph 143(1)31 of the Act authorizes the Commission to make rules regulating investment funds and the distribution and trading of the securities of investment funds, including
 - making rules varying Part XV (Prospectuses – Distribution) or Part XVIII (Continuous Disclosure) by prescribing additional disclosure requirements in respect of investment funds and requiring or permitting the use of particular forms or types of additional offering or other documents in connection with the funds (subparagraph (i)); and
 - making rules prescribing procedures applicable to investment funds, registrants and any other person or company in respect of sales and redemptions of investment fund securities (subparagraph (xi)); and
- Paragraph 143.2(5)(b) of the Act authorizes that publication of a notice is not required if the proposed rule grants an exemption or removes a restriction and is not likely to have a substantial effect on the interests of persons or companies other than those who benefit under it.

Delivery of the Rule to the Minister

The OSC delivered the Rule to the Minister of Finance on or about April 3, 2025. The Minister may approve or reject the Rule or return it for further consideration. If the Minister approves the Rule or does not take any further action, the Rule will come into force on the earlier of 15 days after Ministerial approval or June 17, 2025.

Questions

Please refer any questions to the following OSC staff:

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ANNEX A

OSC Rule 81-510
Dealer Rebates of Trailing Commissions

PART 1 – DEFINITIONS, INTERPRETATION AND APPLICATION

1.1 Definitions – In this Instrument,

“client” means a client of an OEO dealer;

“client transfer” means a client-initiated transfer of trailing commission paying mutual fund securities to an OEO dealer;

“dealer rebate” means a rebate to a client by an OEO dealer, equal to the amount of the trailing commissions paid by the manager to the OEO dealer in respect of the client’s trailing commission paying mutual fund security, for as long as the client holds the trailing commission paying mutual fund security in the OEO dealer account;

“DSC redemption fee” means a redemption fee payable by a client to a manager upon the redemption of mutual fund securities purchased under a deferred sales charge option;

“grace period” means a period of up to 45 days from the date of a client transfer;

“like-to-like switch” means a switch, initiated by a manager or an OEO dealer, of a mutual fund security held in an OEO dealer account from a trailing commission paying class or series to a non-trailing commission paying class or series of the same mutual fund, where the only difference is a lower management fee for the non-trailing commission paying class or series, and where there are no tax consequences for effecting such a switch;

“like-to-similar switch” means a switch, initiated by a manager or an OEO dealer, of a mutual fund security held in an OEO dealer account from a trailing commission paying class or series to a non-trailing commission paying class or series of the same mutual fund, where the only differences are a lower management fee for the non-trailing commission paying class or series, and a difference in distribution policy and/or currency, and where there are no tax consequences for effecting such a switch;

“management fee rebate” means a rebate to a client by a manager, equal to the amount of the trailing commissions that would otherwise be paid by the manager to the OEO dealer in respect of the client’s trailing commission paying mutual fund security, for as long as the client holds the trailing commission paying mutual fund security in an OEO dealer account;

“OEO dealer” means a participating dealer that is not required to make a suitability determination, including a participating dealer offering order execution only accounts;

“OEO trailing commission ban” means the prohibitions in subsections 2.2(3) and 3.2(4) of National Instrument 81-105 *Mutual Fund Sales Practices*; and

“prior holding” means trailing commission paying mutual fund securities that were purchased by a client of an OEO dealer prior to June 1, 2022, and for which a like-to-like switch, a like-to similar switch and a management fee rebate are not available or cannot reasonably be executed.

1.2 Interpretation – Terms defined in the *Securities Act* (Ontario), Multilateral Instrument 11-102 *Passport System*, National Instrument 14-101 *Definitions*, National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, National Instrument 81-102 *Investment Funds* and National Instrument 81-105 *Mutual Fund Sales Practices* have the same meaning in this Instrument.

1.3 Application – This Instrument applies to

- (a) a distribution of securities of a mutual fund that offers or has offered securities under a prospectus or simplified prospectus for so long as the mutual fund remains a reporting issuer, including prior holdings, and
- (b) a person or company in respect of activities pertaining to a mutual fund referred to in paragraph (a).

PART 2 – DEALER REBATES OF TRAILING COMMISSIONS

2.1 Prior Holdings – Subsections 2.2(3) and 3.2(4) of National Instrument 81-105 *Mutual Fund Sales Practices* do not apply to dealer rebates provided in connection with prior holdings if the requirements of this Instrument are complied with.

2.2 Grace Period for Client Transfers – Subsections 2.2(3) and 3.2(4) of National Instrument 81-105 *Mutual Fund Sales Practices* do not apply to a client transfer for the grace period if

- (a) the client transfer is processed in the following manner:
 - (i) a manager will identify whether a like-to-like switch is available, or if no like-to-like switch is available, whether a like-to-similar switch is available, or whether a management fee rebate should be used;
 - (ii) if a manager has identified a like-to-like switch or a like-to-similar switch, the OEO dealer will execute the like-to-like switch or the like-to-similar switch;
 - (iii) if a manager has identified that a management fee rebate can be used, the manager will provide a management fee rebate;
 - (iv) if a like-to-like switch and a like-to-similar switch are not available and a management fee rebate is not used, or if a like-to-like switch or a like-to-similar switch is available and a management fee rebate is not used but the trailing commission paying mutual fund securities remain subject to a DSC redemption fee, the OEO dealer will provide a dealer rebate;
- (b) once the client transfer has been executed, but within the grace period, the OEO dealer must assess whether a like-to-like switch or a like-to-similar switch, if available, has been properly processed, failing which the OEO dealer will take action to ensure the relevant switch is properly processed;
- (c) the OEO dealer provides a dealer rebate to the client for any trailing commissions paid by a manager to the OEO dealer during the grace period.

2.3 Client Transfers – Subsections 2.2(3) and 3.2(4) of National Instrument 81-105 *Mutual Fund Sales Practices* do not apply to dealer rebates provided in connection with client transfers after the grace period if a management fee rebate is not used, and either of the following apply:

- (a) a like-to-like switch is not available and a like-to-similar switch is not available;
- (b) the trailing commission paying mutual fund securities remain subject to a DSC redemption fee.

2.4 Payment – Any OEO dealer providing dealer rebates for prior holdings pursuant to section 2.1 of this Instrument or for client transfers pursuant to sections 2.2 and 2.3 of this Instrument must pay a dealer rebate to its impacted clients in an amount equal to the amount of the trailing commissions received from the manager on at least a quarterly basis.

2.5 Closed Accounts – If a client closed an account prior to the payment of a dealer rebate in connection with a prior holding or a client transfer and the OEO dealer cannot locate the client, then the OEO dealer must do all of the following:

- (a) donate the dealer rebate to a registered charity within 12 months of receipt of the trailing commissions by the OEO dealer, where permitted by applicable laws;
- (b) keep a record of the amount and dates of donations to a registered charity in respect of such prior holdings and client transfers, and the name and charity registration number of each registered charity that received such donations;
- (c) upon request, provide the records in paragraph (b) above to the Investment Management Division by email at IMDivision@osc.gov.on.ca.

2.6 Forced Redemptions – (1) For prior holdings, an OEO dealer or a manager must not redeem a client's mutual fund securities for which trailing commissions are paid without client consent or instruction, in order for an OEO dealer or a manager to comply with subsections 2.2(3) and 3.2(4) of National Instrument 81-105 *Mutual Fund Sales Practices*.

(2) For client transfers, an OEO dealer or a manager must not redeem a client's mutual fund securities for which trailing commissions are paid without client consent or instruction, or charge a DSC redemption fee, in order for an OEO dealer or a manager to comply with subsections 2.2(3) and 3.2(4) of National Instrument 81-105 *Mutual Fund Sales Practices*.

2.7 Fees – (1) For prior holdings, an OEO dealer must not charge any fees to clients in connection with dealer rebates initiated by an OEO dealer.

(2) For client transfers, an OEO dealer or a manager must not charge any fees to clients in connection with like-to-like switches, like-to-similar switches, management fee rebates or dealer rebates initiated by an OEO dealer or a manager, as applicable.

PART 3 – COMMUNICATIONS

3.1 Communications for Client Transfers – (1) OEO dealers must provide clients making client transfers with written notice of all of the following information on the form for client transfers or on a document provided during the process to onboard new accounts:

- (a) how client transfers are processed in accordance with paragraph 2.2(a) of this Instrument and an explanation of how the client transfer process may impact the client;
 - (b) an explanation that the client transfer process in paragraph 2.2(a) of this Instrument is due to OEO trailing commission ban, which took effect on June 1, 2022;
 - (c) a brief explanation that the OEO trailing commission ban means that trailing commission paying mutual fund securities should not be transferred to OEO dealer accounts;
 - (d) an explanation that if no like-to-like switch or like-to-similar switch is available and no management fee rebate is used, or if such a like-to-like switch or a like-to-similar switch is available but the trailing commission paying mutual fund securities remain subject to a DSC redemption fee, the OEO dealer will provide a dealer rebate;
 - (e) an explanation that any like-to-like switch or a like-to-similar switch will be reflected in the client's next account statement and the client will receive a trade confirmation promptly following any like-to-like switch or like-to-similar switch;
 - (f) the client's trade confirmation, account statement or transaction history will name the class or series of the non-trailing commission paying mutual fund that is held by the client after the like-to-like switch or like-to-similar switch, and any dealer rebate;
 - (g) an explanation of how to obtain further information about their mutual fund securities, including how to obtain a copy of the fund facts document for the relevant class or series held by the client after a like-to-like switch or a like-to-similar switch, and that the fund facts document will not be delivered unless requested;
 - (h) a statement about the dealer rebate, how the dealer rebate is calculated, the frequency of payment of the dealer rebate, and that the client's account statement will identify any dealer rebate payment the client received;
 - (i) a statement that client transfers that are subject to a dealer rebate will have access to information on the OEO dealer's website;
 - (j) the OEO dealer contact and resource information for the client to obtain further information.
- (2) OEO dealers must make available to clients on their website all of the following information about dealer rebates:
- (a) a client transfer is subject to a dealer rebate if a like-to-like switch and a like-to-similar switch are not available, and a management fee rebate is not used;
 - (b) an explanation about why a dealer rebate is provided, how the dealer rebate is calculated, the frequency of payment of the dealer rebate, and that the client's account statement will identify any dealer rebate payment the client received;
 - (c) the OEO dealer contact information for the client to obtain further information.

3.2 Inquiries – (1) Any OEO dealer providing dealer rebates pursuant to sections 2.1, 2.2 and 2.3 of this Instrument must address clients' questions with respect to the implementation of the OEO trailing commission ban, including like-to-like switches, like-to-similar switches and dealer rebates for prior holdings and client transfers.

(2) Any manager facilitating like-to-like switches, like-to-similar switches and management fee rebates for client transfers pursuant to sections 2.1 and 2.3 of this Instrument must address clients' questions with respect to the implementation of the OEO trailing commission ban, including like-to-like switches, like-to-similar switches and management fee rebates for prior holdings and client transfers.

PART 4 – RECORDS

4.1 Records – (1) Any OEO dealer relying on section 2.1 of this Instrument to provide dealer rebates for prior holdings must keep a record of the actions taken for each prior holding.

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- (2) Any OEO dealer relying on section 2.2 of this Instrument to process client transfers must keep a record of the actions taken for each client transfer.
- (3) Any OEO dealer providing dealer rebates for client transfers must keep a record of the dealer rebates provided for each client transfer.
- (4) Any manager paying trailing commissions to OEO dealers for dealer rebates for client transfers must keep a record of the actions taken for each client transfer.

4.2 Reporting – (1) Upon request, an OEO dealer must provide any of the records required to be kept under subsections 4.1(1), 4.1(2) and 4.1(3) of this Instrument to the Investment Funds Division at the Ontario Securities Commission by email at IMDivision@osc.gov.on.ca.

(2) Upon request, a manager must provide any of the records required to be kept under subsection 4.1(4) of this Instrument to the Investment Funds Division at the Ontario Securities Commission by email at IMDivision@osc.gov.on.ca.

PART 5 – EXEMPTION

5.1 Exemption – The Director may grant an exemption from the provisions of this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

PART 6 – EFFECTIVE DATE

6.1 Effective Date – This Instrument comes into force on the earlier of 15 days after Ministerial approval or June 17, 2025.