



INVESTMENT DEALERS ASSOCIATION OF CANADA
ASSOCIATION CANADIENNE DES COURTIERS EN VALEURS MOBILIÈRES

December 21, 1999

Daniel P. Iggers
Secretary
Ontario Securities Commission
20 Queen Street West
Suite 800, Box 55
Toronto, Ontario
M5H 3S8

Dear Mr. Iggers:

Re: Proposed Rule 33-503 Changes to Registration Information 33-503

The following is in response to the Request for Comments published September 17, 1999, setting out proposed Rule 33-503. This Rule requires registrants to make application for amendments to a registrant's registration in certain circumstances and to notify the Director of specified changes in the registrant's registration information in other circumstances. The Rule would be applicable to registered individuals and firms, including those who are Members of the IDA.

The Investment Dealers Association would like to take this opportunity to address the overlap in OSC and IDA jurisdiction if Rule 33-503 is applicable to IDA Members and their registrants. As a result of this overlap, the IDA is seeking an exemption from the application and notification requirements in recognition of existing by-laws and regulations and a soon to be implemented policy of the IDA.

Such an exemption would avoid duplication of regulation and confusion for IDA Members and would recognize that the IDA has developed an in-depth and effective set of rules and procedures in these areas.

The exemption would also further recognize the degree to which registration functions have been delegated to the IDA from the OSC. For example, the OSC has already assigned to the IDA the responsibility of registering individual representatives of Member firms in order to streamline administrative requirements and procedures and reduce the documentation which applicants are required to submit. The end result has been an improvement in the efficiency of the registration process. The granting of an exemption

to the IDA from this proposed Rule would ensure the continued efficiency of this process.

Consequently, the IDA requests that the exemption in Part 6 be extended to include a section 6.2. The IDA suggests that this provision would mirror a similar exemption contained in Rule 31-505 Conditions of Registration:

A member of the Investment Dealers Association of Canada may comply with a requirement of this Rule 33-503 by complying with a by-law, rule, regulation, policy, procedure, interpretation or practice of the Investment Dealers Association of Canada dealing with the same subject matter as that requirement that has been approved by the Commission and published by the Investment Dealers Association of Canada.

Outlined below are some of the examples of overlap that would arise as between Rule 33-503 and current or proposed by-laws, policies and procedures of the IDA:

Amendments to Registration Information

An examination of Part 2 of Rule 33-503 reveals that the IDA currently requires a Member firm to supply the information outlined in section 2.1 with respect to amendments in registration information for the firm itself or its individual registrants. These requirements are similarly found in numerous by-laws and regulations of the IDA. For example, a change of designation of a branch manager is set out under By-law 4, the election of a director is set out under By-law 7 and the change of name or a reorganization or amalgamation of the firm is provided for under By-laws 8 and 17.14. All these changes, in addition to the others listed in section 2.1 of the Rule, require approval by the Association.

The only information not presently required by the IDA is contained in paragraph 7 of subsection 2.1(1). However, the IDA has drafted a proposed by-law 29.7A, which, as a result of the CSA's Distribution Structures Paper, will address the requirements, including one pertaining to notification, that must be met prior to the use of a business or trade name other than the name in which the firm's or its individual registrants' registration is granted.

Notices of Changes

Part 3 of Rule 33-503 requires that a firm notify the Director of certain changes to information regarding the registered firm or any of its individual registrants.

The Joint Industry Compliance Group has recently completed drafting a proposed Policy entitled 'Reporting Requirements', which the IDA intends to implement shortly.

One of the major components of this Policy is to require individuals and Member firms to report to their designated SRO changes in information similar to the ones outlined in Rule 33-503. For example, changes such as residential address, refusal or suspension of registration, an assignment or petition in bankruptcy, the issuance of a judgement or garnishment order and other items must be reported under both the Policy and Rule 33-503.

In addition, the Policy requires, as does Rule 33-503, that the Member report items

not formerly required to be reported under securities legislation such as the commencement of any civil proceeding against an individual where damages are in excess of \$25,000, the notification of criminal charges being laid, the commencement of regulatory proceedings, the entering into settlement agreements, etc.

The notification items set out in the proposed IDA Policy are substantially similar, and in some cases more detailed and onerous than the notification requirements set out under Rule 33-503. For example, the Policy requires that the Member firm report matters arising out of a customer complaint. Rule 33-503 has no such requirement.

Perhaps the most significant variation occurs in subsection 3.1(12) of the Rule. In that subsection the registered firm, in addition to an individual registrant, must notify the Director of the commencement of any civil proceedings against the firm under which damages in excess of \$25,000 are claimed against the firm. Under the IDA Policy, the \$25,000 threshold does exist with respect to claims against individual registrants. However, with respect to Member firms themselves, the IDA, under paragraph (6)(f), only requires that the Member report a claim pending of more than \$25,000 where the claim relates *solely* to the handling of client business[?]. The IDA is of the view that to require the Member to report any and all claims which meet a minimal amount of \$25,000 is unduly burdensome and unnecessary. However, when the claim relates *specifically* to the handling of client business, then such claim must be reported.

In addition, under paragraph (7)(d) of the Policy, the Member *is* required to report claims of a more general nature if such a claim is in excess of \$100,000 or 50% of the Risk Adjusted Capital of the Member. The IDA is of the view that a \$100,000 threshold is more appropriate for a general claim against a Member.

A further argument against the \$25,000 threshold for Members is that as many of our Members are affiliates of banks, insurance companies and other financial institutions, the draft rule would require a bank-owned firm to report every lawsuit against the bank where damages in excess of \$25,000 were sought. The IDA Policy relates solely to the Members and its registrants.

Other than this variation between the IDA Policy and Rule 33-503, the notification requirements are similar to such an extent that it would be unnecessarily onerous and duplicative for a Member firm to comply with both.

One further item that the IDA would like to note is that the OSC has chosen to include the requirement that where there are affiliates of a registered firm, the firm itself must notify the Director of any changes to the information listed under section 3.1 as it pertains to the affiliate. It is the view of the IDA that to require a registered firm (especially those that are affiliates of financial institutions) to report the activities occurring in relation to one if its affiliates would be difficult to comply with both in regards to the nature and number of the changes as well as the required time frames for delivery of these notifications to the Commission.

The IDA also requests clarification regarding the definition of *business locations*[?]

contained in subsection 3.1(1) of the Rule. Does this definition mean any location where a firm does business with the public? The IDA is of the view that it is unnecessary to maintain information on non-business offices, such as those where solely administrative functions are handled.

Acquisition of Securities of Registered Dealer, Underwriter or Adviser

Part 4 of Rule 33-503 would require that a person or company notify the Director in writing if the person or company proposed to acquire ownership or control or direction over ten percent or more of any class or series of voting securities of a registered dealer or adviser.

Under IDA By-laws 5.3, 5.4 and 5.5, written notice must be provided to the IDA of the issue or transfer of a legal or beneficial interest in a Member. In addition to notification, prior approval is also required for any transaction that would result in an investor owning a significant equity interest of the Member. For the purposes of this by-law, a "significant equity interest" is defined as voting securities carrying ten percent or more of the votes carried by all voting securities of the Member or ten percent or more of the outstanding participating securities of the Member, or an interest of ten percent or more of the Member.

Consequently, as IDA By-law 5 contains provisions similar to Part 4 of Rule 33-503, it would be duplicative for a Member firm to be required to comply with both.

As a result of the vast similarities between the provisions contained in Rule 33-503 and current IDA By-laws and its proposed Policy on Reporting Requirements, in order to avoid duplication and confusion among IDA Members as to which regulatory regime applies, the IDA is of the view that its Members should be governed by IDA by-laws, policies and procedures rather than by Rule 33-503.

Based on the foregoing, the IDA requests that the IDA be excluded from the requirements contained in Rule 33-503.

For your convenience, the proposed Policy on Reporting Requirements is enclosed.

Yours very truly,

Michelle Alexander
Legal and Policy Counsel
Regulatory Policy

Encl.

cc: Keith Rose
Larry Boyce