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Attention:

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RE: IIROC Proposed Provisions Respecting Client Identifiers

The Investment Industry Association of Canada ("IIAC" or "Association") appreciates the opportunity to provide comment on IIROC Notice 18-0122 (the "Notice" or "Proposal") detailing a revised proposal surrounding the reporting of client identifiers by Dealer Members on each order sent to a marketplace and each reportable trade in a debt security.

The IIAC acknowledges that several of the concerns and requests for clarifications included in the IIAC's prior submission have been addressed, in whole or in part, in IIROC's revised Proposal. However, IIAC Members continue to have some questions and concerns as outlined herein.

Summary of IIAC Requests and Recommendations

The IIAC recognizes the policy rationale supporting IIROC's proposed client identifier framework. The IIAC believes effective rule-making requires thoughtful analysis of the impacts to investor protection, market

functioning, competition and capital formation. To the extent feasible, the benefits of proposed rules also need to be carefully weighed against the costs to implement. It is with these in mind that we submit the following requests and recommendations:

1. IIROC share any analysis undertaken to ensure that the Proposal does not contravene our Members' obligations regarding the handling of personal information.

2. Remove applying for a Legal Entity Identifier (LEI) on the client's behalf from the guidance on obtaining client LEIs.

3. IIROC explore enhancements to their Regulatory Market Correction System to better accommodate correction reporting for client identifiers.

4. IIROC revise its MTRS 2.0 User Guide, DMR 2800C, and the Proposal, if necessary, to clarify that the reporting of allocations for bulk debt transactions is not required, irrespective of when the allocation takes place.

5. Revise the Proposal to accommodate Dealer Members that wish to submit encrypted account numbers.

6. IIROC inform market participants before it engages external non-regulatory participants to utilize stored IIROC trade information, including the purpose of the exercise.

7. Dealer Members not be required to obtain a unique identifier for the clients of any foreign dealer equivalent clients.

8. IIROC implement phase 1 no less than 180 days after Notice of Approval.

9. IIROC implement phase 2 no less than 1 year after Notice of Approval and preferably not before 2021.

Our proceeding comments elaborate on each of the above requests.

Basing the LEI Requirement on Method of Account Supervision

A material change to IIROC's planed client identifier framework contained in the current Proposal is that IIROC now plans to base the LEI requirement on the method of supervision of the account. Specifically, use of the LEI will be limited to clients whose accounts are handled through a Dealer Member's institutional trading business supervised under DMR 2700 *Minimum Standards for Institutional Customer Account Opening and Supervision*. Account numbers, not LEIs, will in turn be the applicable client identifier for Dealer Member accounts supervised under DMR 2500 *Minimum Standards for Retail Customer Accounts*.

IIAC Members view the above change as a pragmatic approach to segmenting clients for who an LEI will need to be reported and aligns well with the current supervisory framework established at Dealer Members. Eliminating the need for Dealer Members to identify clients on their retail networks that potentially could have needlessly required an LEI, such as Family Trusts, will also simplify the reporting process and reduce the resources required for Dealer Members to implement IIROC's client identifier framework.

***The Personal Information Protection and Electronic Documents Act* (PIPEDA)**

One area that concerns IIAC Members is consideration of how the Proposal fits within privacy legislation enacted in Canada and elsewhere. We are interested in understanding what analysis, if any, IIROC has undertaken to ensure that the Proposal does not contravene our Members' handling of personal information under the requirements of *The Personal Information Protection and Electronic Documents Act* or similar legislation.

Assisted LEI Registration

Where an LEI is required but a client has not yet obtained one, the Proposal allows for a Dealer Member to continue to trade for the client using an account number as the identifier in the interim. However, the Proposal states that Dealer Members should take reasonable steps to ensure that the client obtains an LEI, which may include applying for an LEI on the client's behalf.

IIAC Members are opposed to applying for an LEI on the client's behalf for several reasons:

Firstly, 'Assisted Registration' requires that the entity being assigned an LEI give explicit permission to the third party doing so on its behalf. As IIROC is aware, any client outreach is difficult (a topic we will return to later in the comment letter when we address implementation); there will be situations where our Members cannot obtain this explicit permission and, therefore, not able to proceed with Assisted Registration.

Secondly, our members do not have the risk appetite to undertake this process on behalf of clients. Members are wary of the potential liability they would face should the data they enter during the Assisted Registration process be inaccurate or incomplete.

Requiring Dealer Members to apply for an LEI on the client's behalf would also introduce the possibility of multiple Dealer Members applying for the same client, as we would suspect clients may deal with multiple Dealer Members, causing confusion and duplication of effort among Dealer Members.

In addition to the time required, Assisted Registration also entails a direct out-of-pocket expense for the entity that is submitting the registration. While the expense of a single registration may be viewed as nominal, the aggregate cost can quickly escalate if a Dealer Member undertakes Assisted Registration for multiple clients. In addition, there may also be annual renewal information and charges that the entity

submitting the registration may be responsible for thereby further compounding time spent and costs incurred. Lastly, some Members sited that absorbing client LEI registration costs may be construed as a "gift" to the client which raises a host of additional considerations.

Given the above, IIAC Members request that the guidance referring to applying for an LEI on the client's behalf be removed from the Proposal.

Missing or Incorrect Client Identifiers

The Proposal requires Dealer Members (both executing and non-executing) to file correction reports for equity transactions using the Regulatory Market Correction System (RMCS) to rectify errors or omissions pertaining to client identifiers or to some of the other new markers being introduced.

IIAC Members expect that the volume of corrections to be submitted to IIROC will likely increase because of this added requirement. Members believe that the current RMCS interface is not well equipped to deal with this added volume and recommend that IIROC explore enhancements to their correction reporting interface.

Bulk Orders

For equity transactions, the Proposal allows Dealer Members to use a bundled order (BU) marker for orders that contain a combination of inventory, non-client, and/or client account types or "multiple client" (MC) order marker for orders grouped together for more than one unrelated client. In either case, Dealer Members would not need to provide a client identifier on these bulk orders. Furthermore, Dealer Members would not need to report allocations for bulk equity orders (though required to keep allocation records for seven years).

IIAC Members are generally supportive of IIROC's handling of bulk orders for equity transactions outlined above. However, we are concerned with regards to IIROC's requirements in respect of bulk orders for debt transactions.

Specifically, the Proposal references subsection 6.1 of the MTRS 2.0 User Guide which, as currently written, suggests that Dealer Members are required to report client allocations of bulk trades if those allocations occur before the trade reporting deadline (currently 2pm on T+1). This would imply that there is an inconsistency between the reporting of allocations for bulk equity transactions versus bulk debt transactions.

The reporting of allocations for debt transactions is problematic for various reasons.

IIROC price inquiries will be skewed by the additional volume resulting from allocations (for example, IIROC's surveillance may interpret that there were twenty trades at a price of "X" when in fact there was just one bulk trade). This is further compounded by the corporate debt public transparency regime's

reliance on IIROC's MTRS 2.0 system. If Dealer Members are required to report their allocations into MTRS 2.0, the number of transactions visible on IIROC's public transparency site would be inflated. This would be misleading for investors (e.g. 1 trade a day vs. 15+ allocations). Retail investors (and other users of the debt transparency system) would have no way to know the 15+ "trades" are actually just 1 transaction and may interpret the bond as actively traded or liquid when in fact it may not be. Reporting at the allocation level would also defeat the purpose of the existing volume caps on the transparency system.

Most dealers are not set up to report their debt transactions into MTRS 2.0 at the allocation level. Doing so would require significant system changes at these dealers. Also, based on the fee model established by IIROC to recoup its MTRS 2.0 operating costs currently in place, a requirement for dealers to report at the allocation (fund/sub-account) level would result in more trades submitted by the dealer into MTRS, and therefore higher fees for the dealer. The higher volume of trades into MTRS would also translate to additional resources required at IIROC for handling.

Given the above, we believe IIROC should engage in a retrospective review of its MTRS 2.0 User Guide, DMR 2800C, and the Proposal to clarify that the reporting of allocations for debt transactions is not required, irrespective of when the allocation takes place.

Encryption

The Proposal specifies that Dealer Members may choose to encrypt the client's LEI so that it is not visible to a market place. While the IIAC encourages LEI encryption, we do not object to this remaining an optional Dealer Member requirement. We would support IIROC revisiting this periodically to take into consideration any incidents of unencrypted LEIs being compromised.

The Proposal states that account numbers will not be encrypted as the corresponding client identifier would not be available. The IIAC concurs that the compromise of client account numbers may not pose as great a concern as the compromise of LEI information. However, IIAC Members are of the view that client account numbers could also reveal information to the marketplace. For example, if a single account number was building a large position in a security that could be viewed as information to the market.

We therefore suggest that the Proposal be amended to accommodate Dealer Members who want to encrypt account number information.

Storage and Non-Regulatory Use

The IIAC appreciates the additional details included in the Proposal outlining how IIROC will be storing and handling the data it receives, as well as who else will have access to the data. With respect to IIROC providing data access to external non-regulatory participants such as academics, we support the masking of client identifiers and other markers that could compromise the confidentiality of the client or Dealer Members. We also believe that before IIROC engages an external non-regulatory participant to utilize the data, it should inform market participants and include the purpose behind the initiative.

Foreign Dealer Equivalents that Automatically Generate Orders on a Predetermined Basis

The Proposal states that where the client of a Dealer Member is a foreign dealer equivalent (FDE), the FDE would be identified by an LEI but the FDE's end-client(s) would not be identified on the order except for when the client of the FDE automatically generates orders on a predetermined basis. This identifier would not need to take the form of an LEI, account number or client name, however it does need to be unique to the client. IIROC indicates the purpose of the unique identifier is to allow IIROC to segregate the client specific automated/algorithmic trading.

Where the client of a Dealer Member is a FDE the Dealer Member currently does not obtain from the FDE the identity of the end-client, irrespective of whether the end-client generates orders on a predetermined basis. There are several reasons for this, including:

- The unintended consequences that the possession of such information may; for example, create regulatory obligations and require the Dealer Member to treat the client of the FDE as though they were a client of the Dealer Member itself. Would possession of this information make the Dealer Member responsible for AML or suitability obligations to the end-client?

- The adverse effect on Canadian market liquidity that could result from the collection of end-client identifiers from FDEs, as a result of end-clients of FDE's withdrawing from the Canadian market, rather than permitting their information to be shared with Dealer Members.

- Finally, in addition to Dealer Member systems not currently being configured to receive this information, there is doubt that Dealer Members would be able to obtain end-client identifiers from their FDE clients because there may be laws or regulation in the jurisdiction of the foreign dealer preventing them from doing so.

We believe there are alternative regulatory channels that IIROC could pursue to obtain the identity of the FDE's end-client if so desired. As such we request that Dealer Members not be required to provide an identifier of any end-client that belongs to their FDE client.

Implementation Plan

IIROC plans to roll-out the Proposal as part of three phases. Our comments relating to the timelines needed for phase 1 and 2 of implementation are as follows:

Phase 1: Debt Securities

Phase 1 will encompass the reporting of LEIs for institutional clients and account numbers for retail clients transacting in debt securities and requires corrections for missing or erroneous client identifiers *for trades only (not orders)*. IIROC plans to implement phase 1 no less than 90 days after Notice of Approval.

Because Phase 1 will largely leverage the existing MTRS 2.0 framework that has already been adopted by Dealer Members, it will reduce the technology development required by industry to implement. However, members will need to devote significant time and resources towards client outreach efforts to collect LEI information and feed this information into downstream systems.

Our members' recent experience with collecting LEI information as part of their OTC Derivatives trade reporting requirements indicates that connecting with clients, informing them of the LEI requirement, educating them on the process for obtaining an LEI and then ultimately receiving the LEI from the client can be a long and drawn out process. The majority of IIROC Dealer Members will also have to build an LEI database to store client LEI information and feed the information into their MTRS 2.0 reporting systems.

Given the above we recommend that IIROC implement phase 1 **no less than 180 days** after Notice of Approval.

We also question IIROC's reference on page 28 of the Proposal to "orders" in debt securities given that Dealer Members are only required to report trades (not orders) in debt securities into IIROC[1]. Can IIROC elaborate?

Phase 2: Equity Securities

Phase 2 will encompass the reporting of client identifiers surrounding equity transactions, as well as introduce several new designations that Dealer Members must adopt as part of their equity reporting. IIROC plans to implement phase 2 no less than 180 days after Notice of Approval.

Unlike phase 1, this phase will entail significant system changes at the Dealer Members as well as some of their third-party service providers. Specifically, new code will have to be developed for the trading systems utilized by Dealer Members to meet the new reporting requirements contained in the Proposal. This new code will then have to be properly tested and other downstream systems may have to be reconfigured.

Dealer Members will not be able to properly size the development effort until IIROC finalizes the requirements. The potential size of the technology effort involved with this phase will also require Dealer Members to properly budget for it and slot it into their development schedule along with other priority

[1] See IIROC Dealer Member Rule 2800C – Transaction Reporting for Debt Securities

initiatives they may have under way. Dealers indicate that budgets for 2019 have already largely been allotted to other initiatives and even 2020 might be a resource challenge for some.

Given the above we recommend that IIROC implement phase 2 **no less than 1 year** after Notice of Approval and preferably not before 2021.

Thank you for considering our comments. We would be happy to arrange a meeting with IIAC Members to further discuss any part of this submission.

Sincerely,

"Jack Rando"

Jack Rando
Managing Director
Investment Industry Association of Canada