

# **PLANNING TIPS FOR IMPLEMENTING THE “CRM2” AMENDMENTS TO NI 31-103 REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS**

March 7, 2014

## **Implementation Planning**

The purpose of these notes is to remind registered firms of the next stages of implementation of the amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103) and its Companion Policy (CP) relating to cost disclosure, performance reporting and client statements (known as the CRM2 Amendments). The CRM2 Amendments are implemented in stages, with next sets of requirements coming into effect on July 15 in each of 2014, 2015 and 2016. We encourage you to plan now so that you are prepared to be in compliance with the new requirements as they take effect.

These are some things that you should consider when planning the implementation of the CRM2 requirements:

- Scheduling, developing, testing, and implementing systems changes
- Gathering and retaining the information necessary to produce the new reports
- Updating policies and procedures
- Training staff
- Updating compliance oversight practices, and
- Communicating with clients about the new information that they will be receiving.

## **Relationship disclosure information, content and delivery of trade confirmation, and pre-trade disclosure of charges**

The following CRM2 Amendments come into effect on July 15, 2014,

- Additions to the existing requirements for relationship disclosure information in subsection 14.2(2): new paragraphs (m) [benchmarks] and (n) [scholarship plan].
- Additions to the existing requirements for content and delivery of trade confirmation in subsection 14.12(1): new paragraphs (b.1) and (c.1) [debt security].
- New requirements for pre-trade disclosure of charges in section 14.2.1.

## **Account Statements and Additional Statements**

The CRM2 Amendments on account and additional statement requirements in sections 14.14 and 14.14.1 of NI 31-103 come into effect on July 15, 2015.

You will need to determine if the “additional statement” requirement for security positions owned by a client and held or controlled by a third party applies to you. Ask yourself:

- Are they mutual funds?
- Do I receive ongoing payments from the issuers of those securities?
- Do I have discretionary trading authority over those securities?

If your answer to any of the above questions is “yes”, then you are likely required to provide an additional statement to the client. You should contact the issuers of client name securities to ensure they will share relevant information with you, if such arrangements are not already in place.

If your client also has security positions held by you in nominee name, you will need to decide whether to combine the account statements and the additional statements into one fulsome statement for clients. Note you will have to indicate in a clear manner if any securities are covered under an investor protection fund, which securities might be subject to a deferred sales charge if they are sold and, if applicable, the name of the third party that holds or controls the securities and describe the way they are held.

Consideration should be given to ensuring clarity in your client communications so that clients understand how the securities being reported on are held.

If you decide not to combine them into a single document, you will need to decide whether to deliver the two documents in the same envelope (or electronic transmission), or send them separately within 10 calendar days of each other.

For all reporting to clients, consider what you can do to ensure the information you are providing is accurate and complete, including how you can test and verify it before you send it to clients.

### **Position Cost**

The CRM2 Amendments on position cost information in section 14.14.2 of NI 31-103 also come into effect on July 15, 2015.

If you are not already providing position cost information to clients, you will need to choose whether you will provide clients with either book cost or original cost information.

You will need to decide whether you will provide position cost information within your account statements and/or additional statements, or if you will be delivering position cost information separately. Keep in mind that if you decide to deliver it separately, you will have to ensure you deliver these documents within 10 calendar days of each other. Further, if you deliver position cost information separately, you will have to include certain market value information.

You will also need to make a policy decision surrounding the use of a security's market value as a baseline for position cost, when securities are transferred in from a client's account at another firm or securities positions were opened before July 15, 2015.

### **Annual Reports on Charges and Other Compensation and Investment Performance**

The CRM2 Amendments on the annual report on charges and other compensation and annual investment performance report in sections 14.17 – 14.20 of NI 31-103 come into effect on July 15, 2016.

You will be required to provide clients with an annual report on charges and other compensation, and an annual investment performance report. You will need to decide whether you want to combine these two reports, or provide them separately. You may also want to discuss with your clients whether they want their reports to combine multiple accounts. If they want both reports to combine multiple accounts, you will have to obtain their written consent. If you combine reports for multiple accounts, we will expect the same accounts to be covered in both reports so that your client can make effective use of them.

You may also wish to consider whether your firm will offer to provide, or continue to provide, "family" reports that combine the accounts of more than one client as supplements to the required reports. Consider how you will document directions from clients to combine accounts for reporting purposes.

When planning for the new reporting requirements, you will need to choose your annual reporting cycle. You may choose to report, for example:

- On a calendar year basis
- As of one standardized date (such as July 15, to align with the implementation date for the obligation)
- As of different dates for different clients (for example, on the anniversary date of account opening) as long as the same date is used for the same client each year

You need to ensure that you have the capacity to gather and retain the data required for the new reports. We suggest that you begin working now on your internal as well as external systems, to be able to obtain and store the necessary information from third parties, such as investment fund managers that have information on trailing commissions and mutual fund securities held in client name.

For the performance reports of existing clients, you will need to decide if you have all of the inputs necessary to calculate the cumulative change in market value since the account was opened. If you reasonably conclude you do not have the information you need, you can use market value as of July 15, 2015 as a default.

We understand that some of you are currently providing rate of return information calculated using a time-weighted rate of return method. As the CRM2 Amendments will require you to provide an annualized total percentage return using a money-weighted rate of return calculation method, you will need to consider what changes will be required to your systems to accommodate this new requirement. Keep in mind that you may continue to report a time-weighted rate of return, so long as you also provide clients with a money-weighted rate of return annually and explain in plain language the difference between the two.

You should consider the design of your reports to ensure that communication to clients is clear. The use of graphics, as well as text and numbers, will be required. Your firm's reports are an opportunity to distinguish yourself from competitors.

You may also wish to consider whether to produce the reports in-house, or outsource their production to a third party. If you decide to outsource their production, we suggest you refer to the guidance in Part 11 of the CP on outsourcing arrangements.

### **Questions**

If you have any questions with respect to this e-mail, please contact:

Chris Jepson  
Senior Legal Counsel  
cjepson@osc.gov.on.ca  
(416)593-2379

Yan Chan  
Legal Counsel  
ychan@osc.gov.on.ca  
(416)204-8971