

Highlights of Our 2016 Achievements

CEO-to-CEO

The Investment Industry Association of Canada (IIAC) is committed to constructive engagement with securities regulators and governments to fight for cost-effective rules, fight against rules that interfere with business activity and market efficiency, and to promote incentives for capital formation and growth. Our efforts are paying off. Here are some of our 2016 victories on your behalf.

Ian C. W. Russell, FCSI
IIAC President & CEO

Tax Free Savings Accounts (TFSA) Reporting

The issue: If TFSA holder personal information (i.e. last name, birthdate and SIN) on file at a registered securities dealer does not match Canada Revenue Agency (CRA)'s records, the dealer must correct the data and resubmit the amended record or, if unable, nullify the account and issue a tax slip to the client. The final date for correcting TSFAs was February 29, 2016. Due to the outstanding backlog of amended individual records, IIAC Member firms were not informed by the deadline whether the changes made were accepted or rejected by the CRA.

What we got for you: The IIAC requested and obtained a **90-day extension for dealers to reconcile records.**

How does this benefit me? The 90-day extension obtained by the IIAC is a significant benefit for the clients of IIAC Member firms as it **will result in fewer account nullifications and tax slips issued.**



CRM Suitability Assessment

The issue: To meet their suitability obligation, dealer Members firms must take reasonable steps to ensure that they have sufficient information about their client's, including their risk tolerance for various types of securities and investment portfolios. There was a great deal of uncertainty with respect to dealers' suitability assessment obligations for clients with a high-risk tolerance.

What we got for you: At the urging of the IIAC's Venture Market Working Group, **IIROC issued a *Client Relationship Model (CRM) – Frequently Asked Questions (FAQ)*** Notice clarifying dealers' suitability assessment obligations for certain clients with a high-risk tolerance. The FAQ specifically addressed speculative investing or trading, such as in TSX Venture Exchange (TSXV) listed securities. The FAQ clearly articulates the portfolio approach to suitability, and does not prohibit venture stocks in accounts/portfolios that are not high risk. The FAQ also clarifies the approach dealers must adopt to assess suitability when a client wishes to engage in speculative trading and has tolerance for high levels of risk.

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How does this benefit me? The IIROC FAQ is an important guide for Member firms, and **provides dealers with greater confidence** to distribute venture listed stocks to individual investors.



Proxy Voting

The issue: The integrity of the shareholder vote is a cornerstone of shareholder democracy for public companies and an important feature in our capital markets. Concerns have been raised with respect to the quality of the shareholder voting process and the integrity of the results.

What we got for you: The IIAC participated in the Canadian Securities Administrators (CSA)'s review of the proxy voting system and processes, including through the IIAC's Proxy Protocol Working Group, to identify cost-effective improvements to the fragmented and complex proxy voting infrastructure. **Draft proxy voting protocols were developed with IIAC member input** to provide guidance on the roles and responsibilities of all key participants (i.e. intermediary dealers who submit proxy votes, transfer agents who act as meeting tabulators, vendors acting as proxy agent, and Canada's central depository for securities) in the proxy voting process, and detail the operational processes for tabulating proxy votes held through intermediary dealers. These protocols will avoid the need for formal rules.

How does this help me? The draft proxy voting protocols are intended to **increase transparency and accountability, reduce transaction costs and discretion in vote processing to the benefit of issuers and investors, and enhance investor confidence** in the integrity of the shareholder voting process—to the benefit of capital markets. The CSA published the draft proxy voting protocols for public comment at the end of March 2016 and the comment period closes July 15, 2016.



Take-Over Bid Rules

The issue: In Canada, a company's board of directors cannot reject a hostile bid without first giving shareholders their say. In March 2015, the Canadian Securities Administrators (CSA) had proposed changes to Canada's take-over bid regime to level the playing field between bidders and target boards and to provide additional protection to the existing shareholders of the target company. The proposed rules would have substantially extended the period during which a take-over bid must remain open, from the current minimum of 35 days to 120 days.

What we got for you: The IIAC proposed a 90-day bid period. The IIAC said the current minimum deposit period is arguably too short to allow target boards to properly evaluate unsolicited bids, negotiate with a hostile bidder or seek out competing bids, but the IIAC stressed that a longer, 120-day bid period may act as a deterrent to bidders in that there are additional costs involved with cash considerations being set aside for a longer period of time. There is also the risk that competing transactions may be identified and accepted by the target company's board of directors. **The CSA settled on 105 days.** Additionally, the bids will be subject to a mandatory minimum tender requirement of more than 50% of the outstanding class of securities subject to the bid. There is also a mandatory 10-day extension to the bid period after the tender condition is satisfied. The IIAC supports both of these conditions. The changes are effective May 9, 2016.

How does this help me? Changes to Canada's take-over bid regime give target boards in Canada and their shareholders the time to **seek other alternatives and provide greater transparency** on the dynamics of the bid.



“Early Warning” Reporting System

The issue: In Canada, any person that acquires a stake of 10% or more in a Canadian public company must issue a news release immediately and file an “early warning” report within two business days, including the number of shares held, the purpose of the transaction and the acquirer’s future intentions. This allows the market to review and assess the potential impact of changes in ownership or control. The Canadian Securities Administrators (CSA) proposed to reduce the early warning reporting threshold from 10% to 5%.

What we got for you: The IIAC pushed back, stressing the lower threshold would increase compliance costs and reduce access to capital for small and mid-cap companies, and reduce market liquidity as institutional investors restrict investments in smaller companies to avoid triggering the new lower 5% threshold. **The CSA agreed to keep the reporting threshold at 10% for all issuers and investors. In addition, the CSA withdrew its proposal to include “equity equivalent derivatives” for the purposes of determining whether an early warning reporting obligation is triggered.** The IIAC argued derivatives are not used to accumulate a control position in a firm. Rather, investors use derivatives for risk management purposes or as part of a trading strategy. The IIAC also argued borrowed securities, in the context of short selling, should be exempt for the purpose of determining the early warning reporting threshold trigger. The CSA acknowledged that short selling activities are generally undertaken for commercial or investment purposes, and not with a view to influence voting, and it introduced a new exemption for borrowers from the early warning reporting threshold trigger, as long as borrowed securities are disposed of within three business days.

How does this help me? The final amendments **enhance the quality and integrity** of the early warning reporting regime in Canada to the benefit of Canada’s capital markets.



Linked Notes

The issue: A linked note is a debt obligation, most often issued by a financial institution, the return on which is linked in some manner to the performance of one or more reference assets or indexes over the term of the obligation. In the 2016 federal budget, the government proposes to amend the *Income Tax Act* so that the return on a linked note retains the same character, whether it is earned at maturity or reflected in a secondary market sale. A deeming rule will apply for the purposes of the rule relating to accrued interest on the sales of debt obligations, that will treat any gain on the sale of linked note as interest that accrued on the obligation. Furthermore, when a linked note is denominated in a foreign currency, currency fluctuations will be ignored for the purposes of calculating this gain. Finance Canada proposed that the new measures apply to sales of linked notes that occur after September 2016.

What we got for you: The IIAC discussed the proposed changes with Finance Canada officials and submitted a letter to Finance asking that it **defer the implementation of the tax changes to linked notes to provide IIAC member firms more time to make the necessary changes to their tax reporting systems.** Finance announced in September 2016 that the measure will only apply to sales of linked notes that occur after 2016.

How does this benefit me? As a result of the IIAC’s effort, purchasers and investment dealers involved in transactions involving linked notes have **more time to develop systems** to accurately capture and report relevant information under the measure.



Order Protection Rule

The issue: The Order Protection (ORP) Rule requires marketplaces to establish, maintain and ensure compliance with written policies and procedures reasonably designed to prevent inferior-priced orders from “trading through”, or executing before, immediately accessible, visible, better-priced limit orders. In April 2016, the Canadian Securities Administrators (CSA) published final amendments to adjust the ORP framework to address inefficiencies and respond to the changing marketplace.

What we got for you: The IIAC made a number of recommendations that were adopted by the CSA: 1) A market share threshold for marketplaces to be considered a “protected market” was set at 2.5 per cent market share of the adjusted volume and value traded equally weighted over a one-year period. The IIAC had been advocating for a threshold since the introduction of the OPR. 2) Guidance related to intentional order processing delays, or speed bumps, making such marketplaces non protected marketplaces. 3) A data fees methodology that relates to market share. 4) A cap on active non-interlisted trading fees charged by marketplaces.

How does this benefit me? The final amendments will provide **flexibility to market participants** in determining if, and when, to access trading on certain marketplaces, address the level of trading fees in Canada and provide a transparent process for regulatory oversight of real-time professional market data fees.



Late filing penalties on TFSAs

The issue: The IIAC sought administrative relief from the Canada Revenue Agency (CRA) in respect to late filing penalties for tax slips filed as a result of cancelling a Tax-Free Savings Account (TFSA).

What we got for you: The CRA considered the IIAC’s request and **agreed to provide administrative relief on the late filing penalty and interest assessed to any industry member** who files an information return for late-filed slips (T3, T5, etc.) that pertain to cancelled TFSA accounts for the 2011 to 2015 tax years, if the return is electronically submitted by November 30, 2016.

How does this benefit me? As a result of the IIAC’s efforts, TFSA holders and member firms that serve these investors have **extra time to file and benefit from administrative relief** on late filing penalty and interest.



Capital Markets Stability Act (CMSA)

The issue: The *Capital Markets Stability Act* (CMSA) sets out powers granted to the Capital Markets Regulatory Authority regarding national data collection, systemic risk related to capital markets and criminal enforcement. In May 2016 Finance Canada released for comment a revised consultation draft of the *Act*.

What we got for you: The revised draft addressed many of the IIAC’s concerns regarding the potential for undue regulatory burdens on capital market participants. It also included a number of positive changes recommended by the IIAC that **will help to ensure that the new systemic risk powers granted to the Capital Markets Regulatory Authority are used only if necessary and in coordination** with all Canadian regulators to promote efficient capital markets and achieve effective regulation.

How does this benefit me? The CCMRS will foster efficient capital markets, streamline the regulatory framework to protect investors and manage systemic risk.



U.S. Internal Revenue Code Section 871(m)

The issue: In 2013, the U.S. Department of the Treasury and the Internal Revenue Service (IRS) released proposed regulations about the application of U.S. federal withholding tax on payments to non-resident individuals or foreign corporations on certain equity-linked instruments (ELIs) and notional principal contracts (NPC). The rules present significant challenges to Canadian dealers, issuers and other withholding agents in terms of developing robust in-house capabilities to interpret the rules and confirm a payment is subject to U.S. withholding tax, and in designing, building and testing new withholding and reporting infrastructure. Certain taxpayers may face additional challenges applying for status as a “qualified derivatives dealer (QDD)”.

What we got for you: The IIAC has been the dominant voice in the Canadian financial services industry on U.S. tax code section 871(m). The IIAC pinpointed the technical complexities of accurately identifying, reporting and for withholding for these derivative instruments and pushed for more time. The IRS agreed to **dispense with “early” implementation of the aforementioned rules in response to IIAC arguments** that dealers’ back-offices were not adequately structured to comply with the reporting and withholding requirements. In December 2016, the U.S. Internal Revenue Service announced a phase-in schedule for certain rules under section 871(m) regulations to facilitate orderly implementation, and a one-year delay in certain withholding requirements on QDDs that could have resulted in over-taxation on these instruments. The IIAC will continue its dialogue with the IRS to determine how best to eliminate this risk of over-taxation on QDDs and their clients before full implementation begins in 2018.

How does this benefit me? As a result of the IIAC’s efforts, our Member firms will have **additional time to build the systems** needed for withholding and reporting under U.S. Internal Revenue Code Section 871(m) and **more time to obtain clearer guidance**.



Other Highlights

Read Ian Russell’s [Letter from the President](#): “Have we reached the high water mark of global reform?” December 2016.

Ian Russell BNN [interview](#): Why financial regulations may have peaked. December 6, 2016.

IIAC lauds exclusion of TFSAs in new Common Reporting Standard legislation. [Investment Executive](#). November 11, 2016.

Read Ian Russell’s [Letter from the President](#): “The cost-benefit thinking of the regulators needs to be more transparent.” November 2016

Facilitating access to equity capital for small and medium-sized enterprises. By Ian Russell in IRPP’s [Policy Options](#). September 5, 2016.

Read Ian Russell’s [Letter to the Editor](#) in *Investment Executive*: *Targeted rules and firm culture needed, not best interest standard*. August 4, 2016.

“IIAC’s Ian Russell discusses the markets’ reaction to Brexit” on CBC’s [The Exchange](#). June 24, 2016.

[Watch](#) Ian Russell on BNN touting the benefits of a national approach to pension reform. June 17, 2016.

Read Ian Russell's [Letter from the President](#): "Global Tax Reporting: The IIAC's Efforts to Help Member Firms Navigate a Changing Landscape." May 2016.

Read Ian Russell's [Letter from the President](#): "Keeping Track of Change: Evolving Trends in the Wealth Management Business." April 2016.

Read the IIAC's 2016 Federal Budget [Response](#). March 22, 2016.

IIAC introduces [three programs](#) designed to assist our Member firms to combat cyber threats. March 18, 2016.

Read Ian Russell's March [Letter from the President](#): "Poor markets and an escalating regulatory burden battered boutique earnings in 2015, but signs point to a more optimistic outlook." March 2016.

[Watch](#) Ian Russell on BNN as he discusses the factors battering bottom lines of boutique firms. March 21, 2016.

IIAC's Ian Russell discusses the state of independent dealers on BNN. Click [here](#) to watch. February 12, 2016.

Read Ian Russell's [Letter from the President](#): "China's Economic Turmoil Sends Ripples to Global Markets." February 4, 2016.

Ian Russell talks about Saving the TSX Venture Exchange on BNN. Watch [here](#). January 15, 2016.

[Read](#): "Pulling out the stops to rescue the TSX Venture" – *Letter from the President*. January 14, 2016.

[Watch](#) Ian Russell's presentation at the Annual Investment Outlook Luncheon on the results of the IIAC 2015 Survey of Canada's Investment Dealer CEOs. January 5, 2016.

The results and analysis of the IIAC's 2015 Survey of Canada's Investment Dealer CEOs are available [here](#).

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