CIRO leaps forward with new proposed borrowing rules

February 29, 2024

In mid-February, the Canadian Investment Regulatory Organization (CIRO) released proposed amendments to the Investment Dealer and Partially Consolidated (IDPC) Rules and IDPC Form 1 with respect to fully paid securities lending and financing arrangements. These amendments are intended in part to enhance the framework regarding retail fully paid securities lending. CIRO also published draft revised Guidance on Fully Paid Securities Lending to replace existing guidance. The following summary of the proposed changes deals with fully paid securities lending, as the proposed changes to the rules respecting financing arrangements are generally intended to fix existing overlaps and inconsistencies.

Fully paid securities lending occurs when a dealer member borrows a client's fully paid or excess margin securities as principal and then uses such securities to meet their in-house demand or lend them out to a third party. Collateral is then provided to the client - directly or through a collateral agent to secure the loan. The notice describing the proposed amendments indicates that currently, eight dealers are permitted to utilize these lending programs but that additional dealers have expressed an interest in doing so, and that 165,000 clients have been enrolled in approved programs, the majority of whom are retail clients.

The proposed amendments would introduce a new Part B.2 of IDPC Rule 4600, to set out specific requirements for dealers when borrowing. These requirements would be mandatory when borrowing involves retail clients but would only apply to borrowing activity involving institutional clients if the client opts to be treated as a retail client for lending purposes. The requirements will apply to all dealer fully paid lending arrangements with retail clients even if it is not done through a structured lending program.

Under the proposed amendments, a dealer will only be permitted to borrow client securities upon prior consent and, where applicable, the determination that the lending services are suitable for the client. Specific information will need to be included in the securities loan agreement which is aligned with current rule requirements and market practices. A proposed new section of the rule will set out the specific requirements for disclosure, including the loan arrangement's structure, benefits, risks, and Investor Protection Fund coverage limitations, together with a client acknowledgement of understanding these disclosures. The minimum criteria for adequate collateral will also

be set out. Collateral will generally be restricted to cash (or certain debt securities when permitted by CIRO), at a minimum of 102 per cent of the market value of the borrowed securities for cash collateral and 105 per cent for securities collateral and held in a form permitted by CIRO.

Other provisions include restrictions on the reuse of securities loaned and the assets provided as collateral, to mitigate risks such as dealer default and systemic contagion risks, and requirements for specific communications to lending clients with respect to the loan arrangement. With respect to securities that will be eligible for borrowing, dealers will continue to only be permitted to borrow securities held in non-registered accounts, and CIRO will prescribe from time to time any restrictions on securities a dealer can borrow when it deems it to be in the interest of the clients and the public and will publish such restrictions on its website. Currently, there is a restriction that only equity securities listed on an exchange can be borrowed by a dealer. The proposed securities eligibility criteria are included as an appendix to the notice.

The draft revised guidance discusses these changes and the potential conflicts of interests facing dealers who borrow client securities. The guidance also describes CIRO's expectations that when borrowing from clients of introducing brokers and portfolio managers, whose accounts a dealer carries, the dealer is expected to get a confirmation that (i) each introducing broker has received a non-objection letter from CIRO before fully paid securities of their clients are borrowed, and (ii) each portfolio manager has notified applicable CSA members before fully paid securities of their clients are borrowed.

Comments on the proposal are due by **April 15, 2024**.

By

William Donegan

Expertise

AUM Law

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.