

# IIROC Client Relationship Model (CRM)

Recent changes to the brokerage business:  
What is on the horizon and the  
effect on tax planning

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# What is IIROC CRM?

Rules focus on 4 key areas:

1. Relationship Disclosures
2. Account Suitability
3. Conflicts of Interest Management & Disclosures
4. Account Performance Reporting

**RICHTER**



RBC Wealth Management  
Dominion Securities

# Transfer of Securities

- Rule 6.4 of the Universal Market Integrity Rules
  - Trades must be executed on a marketplace unless they fall within exemptions
    - Executed at a price within context of the market
    - Not an action to evade tax or securities laws
    - No change in “beneficial or economic ownership”
      - An individual to another account owned by him/her alone
      - An individual to his/her RRSP
      - An individual to his/her wholly owned corporation
- A transfer between spouses is NOT exempt, must occur on marketplace

# Gift of Securities

- A gift of securities to a spouse or a contribution of securities to a spousal RRSP can be completed off-marketplace
- A gift of securities to a registered charity may also be completed off-marketplace
- Because there is not consideration in either instance, they do not constitute “trades”.

# Effect on “Normal” Transactions

- Effect of the IIROC Rules on ordinary transactions
  - The devil is often in the details
- Loss trading transaction
  - Father sells stocks with losses
  - Denial of losses if purchased/repurchased by “affiliated person” within 30 days
  - Loss permitted if sale to unaffiliated person – child, parent, sibling etc.
- Will off-market transaction be permitted?
- Consider selling to affiliated, wholly-owned corp.
  - Amalgamate with non-affiliated entity within 30 days?

# Effect on “Normal” Transactions, cont’d

## ■ Gain transactions

- Corporation A is expecting to claim a 50(1) loss by year-end of \$1M
- Also owns stock with \$1M gain
  - Sell stock to “related” corp (Corporation B) to realize gain
  - Non-taxable portion of gain increases CDA to \$500,000
    - CDA paid out prior to loss recognition
- Will gain transaction be respected?
- Corporation B may not fall into limited exceptions

## ■ Consider transferring to new wholly-owned corporation

- Subsequent amalgamation with desired transferee corp?

# Effect on “Normal” Transactions, cont’d

- Loan repayment
  - Individual purchases rental property with funds borrowed from family corporation
    - 15(2) shareholder loan
    - Must be repaid by 2<sup>nd</sup> balance sheet date
  - Repayment by transfer of publicly issued bonds
    - Permitted?
    - Can it be done on time?

# Effect on “Normal” Transactions, cont’d

## ■ Estate planning

- 164(6) ITA
  - Allows capital losses incurred by estate to be carried back to terminal return
  - Must occur within first fiscal year of the estate
- Public shares – FMV at death \$100,000, ACB of \$60,000 – capital gain of \$40,000
- FMV drops to \$80,000 post-mortem prior to 1<sup>st</sup> year-end deadline
  - Sell shares to corporation controlled by beneficiaries to realize losses
  - Assume non-affiliated
  - Permitted?



# Concerns re: New Regulations

- Does lack of regulatory approval signal denial of the transactions?
  - Will taxation authorities respect private agreement not accepted by regulatory authorities?
  - Use of trusts for estate freeze will complicate stock transfers
- Time-sensitive transactions
  - Must provide for time for regulatory approval
  - Will taxation authorities respect date of private agreement even if “physical” movement occurs later
- If the approval is required
  - Will affect timing of loan repayments, 164(6) transactions
- Is the answer to pay more broker commissions to ensure validity of tax planning?

# Transfer of Securities

- In fact, a transfer of securities between an individual and a corporation not wholly owned by him was addressed in CRA Views 2012-0451291C6
  - Because of regulatory limitations, intended direct transfer to private corporation instead will occur as a sale by transferor on the public markets and a purchase by the private corp on the markets
  - CRA said that because the transfers needed to take place on a marketplace, the parties failed the test of having been disposed of to a taxable Canadian corporation and as such Section 85(1) could not apply.
  - Having a trust or spouse as a shareholder would cause for the “wholly-owned” requirement to have been violated.

Thank you!