

13.1.3 Proposed Amendments to IDA By-law 29.7 – Advertisements, Sales Literature and Correspondence

INVESTMENT DEALERS ASSOCIATION OF CANADA

ADVERTISEMENTS, SALES LITERATURE AND CORRESPONDENCE

(The black-line reflects revisions to the proposed amendments to IDA By-law 29.7 originally published on November 8, 2002).

1. By-law 29.7 is repealed and replaced as follows:

29.7.

Definitions

For the purposes of this By-law 29.7:

“advertisement(s) or advertising” shall include television or radio commercials or commentaries, newspaper and magazine advertisements or commentaries, and any published material including materials disseminated or made available electronically promoting the business of a Member.

“sales literature” shall include any written or electronic communication other than advertisements and correspondence, distributed to or made generally available to a client or potential client which includes a recommendation with respect to a security or trading strategy. Sales literature includes but is not limited to records, videotapes and similar material, market letters, research reports, circulars, performance reports or summaries, promotional seminar text, telemarketing scripts and reprints or excerpts of any other sales literature or published material, but does not include preliminary prospectuses and prospectuses.

“correspondence” means any written or electronic business related communication prepared for delivery to a single current or prospective client, and not for dissemination to multiple clients or to the general public.

“trading strategy” means a broad general approach to investments including matters such as the use of specific products, leverage, frequency of trading or a method of selecting particular investments but does not include specific trade or sectoral weighting recommendations.

29.7 (1) No Member shall issue to the public, participate in or knowingly allow its name to be used in respect of any advertisement, sales literature or correspondence, and no registered or approved persons shall issue or send any advertisement, sales literature or correspondence in connection with its or his or her business which:

- (a) contains any untrue statement or omission of a material fact or is otherwise false or misleading;

- (b) contains an unjustified promise of specific results;
- (c) uses unrepresentative statistics to suggest unwarranted or exaggerated conclusions, or fails to identify the material assumptions made in arriving at these conclusions;
- (d) contains any opinion or forecast of future events which is not clearly labeled as such;
- (e) fails to fairly present the potential risks to the client;
- (f) is detrimental to the interests of the public, the Association or its Members; or
- (g) does not comply with any applicable legislation or the guidelines, policies or directives of any regulatory authority having jurisdiction.

29.7 (2) ~~No~~ Each Member shall be in breach of By-law 29.7(1) if it has exercised due diligence in establishing, implementing and monitoring internal develop written policies and procedures reasonably designed to ensure that that are appropriate for its size, structure, business and clients for the review and supervision of advertisements, sales literature and correspondence relating to its business. ~~do not violate By-law 29.7(1). Such~~ All such appropriate for the Member's size, structure, business and clients and policies and procedures shall be approved by the Association.

29.7 (3) The policies and procedures referred to in subsection (2) may provide that such review and supervision will be done by pre-use approval, post use review or post use sampling, as appropriate to the type of material. However, the following types of advertisements, sales literature or correspondence must be approved prior to publication or use by a partner, director, officer or branch manager of the Member who is designated to approve such materials:

- (a) Research reports,
- (b) Market letters,
- (c) Telemarketing scripts,
- (d) Promotional seminar texts (not including educational seminar texts),
- (e) Original advertisements/original template advertisements; and
- (f) Any material used to solicit clients that contain performance reports or summaries.

29.7 (4) Where such policies and procedures do not require the approval of advertisements, sales literature or correspondence prior to being issued, the Member must include provisions for the education and training of registered and approved persons as to the Member's policies and procedures governing such materials as well as follow-ups to ensure that such procedures are implemented and adhered to.

29.7 (5) Copies of all advertisements, sales literature and correspondence and all records of supervision under the policies and procedures required by subsection (2) section 29.7(2) shall be retained so as to be readily available for inspection by the Association. All advertisements, sales literature and related documents must be retained for a period of 2 years from the date of creation and all correspondence and related documents must be retained for a period of 5 years from the date of creation.