

**13.1.5 IDA Amendments To Regulations 100.2, 100.20, 400.4 And Form 1 – Margin Requirements For Precious Metals**

**INVESTMENT DEALERS ASSOCIATION OF CANADA –  
AMENDMENTS TO REGULATIONS 100.2, 100.20, 400.4 AND FORM 1 –  
MARGIN REQUIREMENTS FOR PRECIOUS METALS**

**I OVERVIEW**

**A Current Rules**

Current margin requirements only allow certificates evidencing an interest in the precious metals gold, silver, and platinum to be margined. These certificates must be negotiable and issued by Canadian chartered banks and trust companies authorized to do business in Canada. The current margin requirements for precious metal certificates are set out in Regulation 100.2(i). The margin rates for these types of gold, silver, and platinum certificates are 10%, 15%, and 15%, respectively.

**B The Issue(s)**

The issue is that there are no IDA margin rules for precious metals bullion and as a result they are margined at 100% of their market value. Meanwhile, gold, platinum and silver precious metals certificates, which are just another form of holding precious metals investments, are margined at 10% to 15% of their market value.

**C Objective(s)**

The proposed amendments would allow gold and silver precious metals bullion to be margined like their respective certificates. The objective of the proposed amendments is to create margin rules that are commensurate with the risks associated with IDA members dealing in precious metals certificates and bullion.

**D Effect of Proposed Rules**

The proposed amendments are expected to be beneficial to Members, customers and the markets in general, because the margin and capital requirements will correspond to the risks involved in dealing with precious metals bullion. The costs of compliance will be higher for Members involved in this business as there are additional risks to themselves and their customers that must be covered.

**II DETAILED ANALYSIS**

**A Present Rules, Relevant History and Proposed Policy**

The current margin requirements for precious metal certificates are set out in Regulation 100.2(i). Regulation 100.2(i) permits certificates evidencing an interest in the precious metals gold, silver, and platinum to be margined. These certificates must be negotiable and issued by Canadian chartered banks and trust companies authorized to do business in Canada. The margin rates for these types of gold, silver, and platinum certificates are 10%, 15%, and 15%, respectively.

The proposed amendments would allow gold and silver precious metals bullion to be margined like their respective certificates. Current margin requirements only allow certificates evidencing an interest in the precious metals gold, silver, and platinum to be margined. An IDA member questioned the rationale for allowing only the certificates to be margined and showed that the precious metals markets around the world for gold and silver bullion were well established and liquid, and other comparable countries like the U.S. and the U.K. allowed these precious metals bullion to be margined.

IDA staff performed its risk analysis to determine whether gold and silver precious metals bullion should be allowed to be margined like their respective certificates and concluded that they should be. The proposed amendments result from the risk analysis performed and the extensive IDA subcommittee discussions, including informal discussions with the Royal Canadian Mint and ScotiaMocatta, to address concerns about authenticity and liquidity; storage, control and segregation; margin and capital; concentration; and insurance.

Furthermore, the proposed amendments would in the short-term increase the margin rates for gold, silver, and platinum certificates as the risk analysis showed that the current margin rates were not adequate to cover each metal's price volatility and liquidity risks. In the long-term, the margin rates for precious metals certificates and bullion would be based on the new methodology for margining equity securities and therefore, would be more dynamic and commensurate with their changing price volatility and liquidity risks.

*Authenticity and Liquidity*

To minimize the risks relating to the authenticity and liquidity of any gold and silver bullion carried in inventory and client margin accounts, the proposed amendments to Regulation 100.2(i) require that the gold and silver bullion be purchased by the Member from the Royal Canadian Mint or a Canadian chartered bank that is a full member (i.e. a market making member or an ordinary member) of the London Bullion Market Association (LBMA) and that these entities provide a written representation that the gold and silver bullion purchased are LBMA good delivery bars. Currently, the Bank of Nova Scotia (ScotiaMocatta), the Royal Bank of Canada and the Canadian Imperial Bank of Commerce are full members of the LBMA.

*Storage, Control and Segregation*

To address the storage, control and segregation risk issues, the definition of acceptable securities locations in the general notes and definitions to Form 1 was amended to limit the entities that may hold LBMA gold and silver good delivery bars on behalf of a Member (inventory and client positions) without capital penalty. These entities must be full members or associate members (the Royal Canadian Mint) of the LBMA and must also appear on the SROs list of entities considered suitable to hold these bars; this list is a new list that will be published as a Member Regulation Notice. Furthermore, a written precious metals storage agreement must be executed with the storage location and provide equivalent rights and protection to the Member as the standard securities custodial agreement.

*Margin and Capital*

To evaluate whether the current margin rates were still adequate to cover the price volatility and liquidity risks for gold, platinum and silver certificates, which would also apply to the underlying bullion, IDA staff calculated the margin rates as if the floating margin rate methodology in Regulation 100.9(a)(x) had applied to gold, platinum and silver for the last five years (January 2, 2002 to December 29, 2006). The daily London Fix prices were used, and the maximum margin rates calculated were 10.25%, 17.25% and 18.75% for gold, platinum and silver, respectively, which were higher than their current margin rates 10%, 15% and 15%, respectively. Consequently, the proposed amendments seek to increase these precious metals margin rates by a fixed amount in the short-term to 20%. In the long-term, the new methodology for margining equity securities would be used to calculate their margin rates, because the new methodology incorporates much of the floating rate methodology, in addition to providing an extra risk protection via minimum margin rates (i.e. 15% for Members and 25% for customers).

*Concentration*

In addressing the potential concentration exposure of a Member to a particular precious metal bullion, IDA staff looked at whether precious metal certificates should be considered as an exposure to the particular precious metal or to the issuer of the certificates. It was concluded that the precious metal certificates should be considered as an exposure to the underlying precious metal and not to the issuer of the certificates and consequently, the proposed amendments to Regulation 100.20 and Schedule 9 plan to combine the precious metal certificates and bullion as precious metal positions for the particular precious metal.

*Insurance*

To ensure that a Member's calculation for its minimum amount of insurance to be maintained considered its exposure to customer precious metals bullion positions in gold and silver, the net equity for each customer would need to be expanded beyond the current cash and securities only positions. Therefore, the proposed amendments to Regulation 400.4 and to the notes and instructions to Schedule 10, and a requirement for these Members to supplement their FIB policies with a rider to cover precious metals bullion to adequately address the insurance coverage issue have been made.

A blacklined copy of the proposed amendments is enclosed as Enclosures #1.

**B Issues and Alternatives Considered**

The proposed rule addresses the issue that the margin rates for precious metals certificates (10% and 15% margin rates) were significantly different from the underlying precious metals bullion (100% margin rate). Three alternatives were considered including the recommended alternative:

1. the status quo
2. only Member positions in gold and silver precious metals bullion to be margined
3. both Member and customer positions in gold and silver precious metals bullion to be margined

The first alternative, the status quo, was dismissed given that our analysis showed that the authenticity and liquidity risks involved in bullion positions can be mitigated by placing limits on who Members must purchase the precious metals bullion from, where they must hold them, and what standards the precious metals bullion must meet. The second alternative, only Member positions in gold and silver precious metals bullion to be margined, was also dismissed as the mitigating factors mentioned in the first alternative also works for client positions. Consequently, the third alternative was recommended.

### **C Comparison With Similar Provisions**

The U.S. does allow margin lending on gold and silver bullion. The initial margin requirement is \$2,000 of minimum equity in the customer's account and a maintenance margin of 25% of the market value of gold or silver spot commodities (10% of the market value of the gold or silver spot commodities if "hedged by futures contracts" in the same commodity). The U.S. Securities Exchange Commission's (SEC) Rule 4 ([http://www.sec.gov/rules/sro/pcx/34-49451\\_a4.pdf](http://www.sec.gov/rules/sro/pcx/34-49451_a4.pdf)) requires that the firm be registered as an Options Trader Permit (OTP) Holder or an OTP Firm with the Pacific Exchange, which is now part of the New York Stock Exchange. The OTP Holder or OTP Firm is allowed to margin lend to customers provided that the gold or silver bullion purchased by customers are:

- within the OTP Holder's or OTP Firm's control,
- is in good deliverable form, and
- covered by appropriate insurance.

SEC Rule 4 also sets out the capital requirements for OTP Holders and OTP Firm, and the circumstances in which the gold and silver bullion are required to be deducted from their net worth in calculating net capital. In addition, SEC Rule 4 goes into significant detail about complying with the three bullet points above, including details about storage arrangements, custodial requirements, identifying customer pledged bullion from fully paid for bullion, utilizing foreign depositories, minimum purity requirements, acceptable refiners, and acceptable assayers. Furthermore, SEC Rule 4 requires OTP Holders and OTP Firms to fully disclose to customers all relevant information pertaining to the transaction: names and locations of depositories; insurance coverage; charges incidental to storage; requirements and costs related to taking delivery of the bullion (e.g. possible need for assay); applicable Federal, state and local laws (e.g. taxes); costs and commissions; special risks and unique characteristics of bullion; and that SIPC (Securities Investor Protection Corporation) coverage is not available on bullion.

One of the key aspects of SEC Rule 4 is that under no circumstances is an OTP Holder or OTP Firm to release the proceeds of sale of gold or silver to a customer unless the customer's gold or silver has been assayed by an acceptable assayer or is in a form acceptable to such assayer.

The U.K. does allow gold and silver positions to be margined. The U.K. Financial Services Authority (FSA) regulates investment dealers and determines how these precious metals are to be margined. Their equivalent term for margin is called position risk requirement (PRR). Gold positions are included within the scope of the foreign exchange PRR and silver positions are within the scope of the commodity PRR in sections 7.4 and 7.5 of the FSA Handbook, respectively.

For gold positions including physical positions, a firm must calculate its foreign currency PRR by calculating the net open position in gold and multiplying the sum of that net open position and the net gold position by 8%. Effectively, gold is margined at 8%. For silver positions including physical positions, a firm must calculate its commodity PRR by using either the commodity simplified approach, the commodity maturity ladder approach or the commodity extended maturity ladder approach. The commodity simplified approach is done by summing: 15% of the net silver position multiplied by the spot price for the commodity; and 3% of the gross silver position (long plus short, ignoring the sign) multiplied by the spot price for the silver. Effectively under this approach, silver is margined at 18%. In addition, a firm must treat silver positions in different grades or brands as different commodities unless they can be delivered against each other or are close substitutes and have price movements which have exhibited a stable correlation coefficient of at least 0.9 over the last 12 months.

### **D Systems Impact of Rule**

The IDA believes the proposed amendments will have no impact on systems. The Bourse de Montréal is also in the process of passing these amendments. Implementation of these amendments will therefore take place once both the IDA and the Bourse de Montreal have received approval to do so from their respective recognizing regulators.

### **E Best Interests of the Capital Markets**

The Board has determined that the proposed rule is in the public interest and is not detrimental to the best interests of the capital markets.

**F Public Interest Objective**

According to the IDA's Order of Recognition as a self regulatory organization, the IDA shall, where requested, provide in respect of a proposed rule change "a concise statement of its nature, purposes (having regard to paragraph 13 above) and effects, including possible effects on market structure and competition". Statements have been made elsewhere as to the nature and effects of the proposals with respect to margin requirements for precious metals. The purposes of the proposal are to: "prevent fraudulent and manipulative acts and practices; promote the protection of investors, just and equitable principles of trade and high standards of operations, business conduct and ethics; facilitate an efficient capital-raising process and to facilitate transparent, efficient and fair secondary market trading and the availability to members and investors of information with respect to offers and quotations for and transactions in securities, and efficient clearance and settlement procedures; facilitate fair and open competition in securities transactions generally; and standardize industry practices where necessary or desirable for investor protection."

The proposal does not permit unfair discrimination among customers, issuers, brokers, dealers, members or others. It does not impose any burden on competition that is not necessary or appropriate in furtherance of the above purposes. The proposed amendments are in the public interest as it sets requirements that are commensurate with the risk of holding precious metals (certificates and bullion) positions and it will allow Members and customers to hold precious metals bullion in a more capital efficient way.

**III COMMENTARY**

**A Filing In Other Jurisdictions**

These proposed amendments will be filed for approval in Alberta, British Columbia, Quebec and Ontario and will be filed for information in Manitoba, Newfoundland and Labrador, Nova Scotia and Saskatchewan.

**B Effectiveness**

An assessment of the effectiveness of the proposed rules in addressing the issues discussed above.

**C Process**

The proposal was developed in consultation with the Financial Administrators Section (FAS) Capital Formula Subcommittee, the FAS Insurance Subcommittee, the FAS Executive and the FAS. In addition, IDA staff conducted informal discussions with the Royal Canadian Mint and ScotiaMocatta. The previously mentioned FAS subcommittees and the FAS have recommended that the Board of Directors approve the proposal.

**IV SOURCES**

References:

- IDA Regulation 100.2(i) – Precious Metal Certificates
- IDA Regulation 100.9(a)(x) – Floating Margin Rate
- IDA Regulation 100.20 – Concentration of Securities
- IDA Regulation 400 – Insurance
- IDA Form 1 – Joint Regulatory Financial Questionnaire and Report: Definition of Acceptable Securities Locations; Definition of Market Value of Securities; Schedule 9 (Concentration of Securities); and Schedule 10 (Insurance).
- U.S. Securities Exchange Commission's (SEC) Rule 4 ([http://www.sec.gov/rules/sro/pcx/34-49451\\_a4.pdf](http://www.sec.gov/rules/sro/pcx/34-49451_a4.pdf))
- U.K. Financial Services Authority (FSA) Handbook Section 7.4 Commodity PRR (<http://fsahandbook.info/FSA/handbook/BIPRU.pdf>)
- U.K. Financial Services Authority (FSA) Handbook Section 7.5 Foreign currency PRR (<http://fsahandbook.info/FSA/handbook/BIPRU.pdf>)

**V REQUIREMENT TO PUBLISH FOR COMMENT**

The IDA is publishing for comment the accompanying proposed amendments. The Association has determined that the proposed amendments are in the public interest. Comments are sought on the proposed amendments. Comments should be made in writing. One copy of each comment letter should be delivered within 30 days of the publication of this notice, addressed to the attention of Anwerd Ramcharan, Specialist, Regulatory Policy, Investment Dealers Association of Canada, Suite 1600, 121 King Street West, Toronto, Ontario, M5H 3T9 and one copy addressed to the attention of the Manager of Market Regulation, Ontario Securities Commission, 20 Queen Street West, 19<sup>th</sup> Floor, Box 55, Toronto, Ontario, M5H 3S8.

Those submitting comment letters should be aware that a copy of their comment letter will be made publicly available on the IDA website ([www.ida.ca](http://www.ida.ca)) under the heading "Rule Book & Bulletins" and sub-heading "Regulatory Policy Proposals and Comment Letters Received".

Questions may be referred to:

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**INVESTMENT DEALERS ASSOCIATION OF CANADA  
MARGIN REQUIREMENTS FOR PRECIOUS METALS – REGULATIONS 100.2, 100.20, 400.4 AND FORM 1**

**BOARD RESOLUTION**

THE BOARD OF DIRECTORS of the Investment Dealers Association of Canada hereby makes the following amendments to the By-laws, Regulations, Forms and Policies of the Association:

**Prior to the implementation of the new methodology for margining equity securities**

1. Subsection 100.2(i) of Regulation 100 is amended by:
  - (a) Adding the words “**and Bullion**” immediately following the words “**Precious Metal Certificates**”;
  - (b) In subparagraph 100.2(i)(i)
    - (i) Adding the number “(i)” immediately preceding the words “On negotiable certificates”;
    - (ii) Replacing the percentage immediately following the word “Gold:” with “20%”;
    - (iii) Deleting the words “and silver” immediately following the word “Platinum.”;
    - (iv) Replacing the percentage immediately following the words “Platinum and silver:” with “20%”;
    - (v) Adding the words “Silver: 20% of market value” immediately beneath the words “15% of market value”; and
    - (vi) Deleting the sentence “On silver certificates approved by Intermarket Services Inc. held by a Member, margin shall be 25% of market value.”.

and

- (c) Adding new subparagraph 100.2(i)(ii) as follows:
    - “(ii) On bullion purchased by a Member, for its inventory or on behalf of a client, from the Royal Canadian Mint or a Canadian chartered bank that is a market making member or ordinary member of the London Bullion Market Association (LBMA); and a written representation from them stating that the bullion purchased are LBMA good delivery bars:  
  
Gold: 20% of market value  
  
Silver: 20% of market value”
2. Section 100.20 of Regulation 100 is amended by:
    - (a) In subsection 100.20(a):
      - (i) In subparagraph 100.20(a)(i):
        - (I) Adding in subparagraph 100.20(a)(i)(A)1. the words “and precious metals” immediately following the words “long securities”;
        - (II) Adding in subparagraph 100.20(a)(i)(A)2. the words “and precious metals” immediately following the words “long securities”;
        - (III) Adding in subparagraph 100.20(a)(i)(A)3. the words “and precious metals” immediately following the words “long securities”; and
        - (IV) Adding in subparagraph 100.20(a)(i)(A)3. the words “and precious metals” immediately following the words “such securities”.
      - (ii) Adding new subparagraph 100.20(a)(iii) immediately following subparagraph 100.20(a)(ii) as follows:

- “(iii) “Precious metal” includes:
- (A) long positions in certificates evidencing an interest in gold, platinum or silver that are acceptable for margin purposes as defined in Regulation 100.2(i)(i); and
  - (B) long positions in London Bullion Market Association (LBMA) gold or silver good delivery bars that are acceptable for margin purposes as defined in Regulation 100.2(i)(ii).”

and

(iii) Renumbering existing subparagraph 100.20(a)(iii) as subparagraph 100.20(a)(iv).

(b) In subparagraph 100.20(b)(iv):

- (i) Adding the words “and precious metal” immediately following the words “any securities”; and
- (ii) Adding the words “and precious metal” immediately following the words “on each security”.

(c) In subparagraph 100.20(c)(i):

- (i) Adding the words “or precious metal” immediately following the words “any one security”; and
- (ii) Adding the words “or precious metal” immediately following the words “value of the security”.

(d) In subsection 100.20(d):

- (i) Adding the words “or precious metal” immediately following the words “any one security”;
- (ii) Adding the words “or precious metal” immediately following the words “on any other security”;
- (iii) Adding the words “or precious metal” immediately following the words “on the other security”; and
- (iv) Adding the words “or precious metal” immediately following the words “loan value of the security”.

and

(e) In subsection 100.20(e), adding the words “and precious metals” immediately following the words “first five securities”.

3. Subsection 400.4(i) of Regulation 400 is amended by:

- (a) Replacing the words “and securities” immediately following the words “determined as the total value of cash” with the words “, securities, and other acceptable property (as defined in Schedule 10 of Form 1)”; and
- (b) Replacing the words “and securities” immediately following the words “less the total value of cash” with the words “, securities, and other acceptable property (as defined in Schedule 10 of Form 1)”; and

4. The General Notes and Definitions to Form 1 are amended by:

(a) In the definition of “acceptable securities locations”, adding the following words immediately above the words “The entities are as follows.”:

“For London Bullion Market Association (LBMA) gold and silver good delivery bars, means those entities considered suitable to hold these bars on behalf of a Member, for both inventory and client positions, without capital penalty. These entities must:

- be a market making member, ordinary member or associate member of the LBMA;
  - be on the SROs list of entities considered suitable to hold LBMA gold and silver good delivery bars;
- and

- have executed a written precious metals storage agreement with the Member, outlining the terms upon which such LBMA good delivery bars are deposited. The terms must include provisions that no use or disposition of these bars shall be made without the written prior consent of the Member, and these bars can be delivered to the Member promptly on demand. The precious metals storage agreement must provide equivalent rights and protection to the Member as the standard securities custodial agreement.”

and

- (b) In the definition of “market value of securities”, adding the words “and precious metals bullion,” immediately following the text “2. for unlisted and debt securities.”.

5. The Notes and Instructions to Schedule 9 of Form 1 are amended by:

(a) In Note 1:

- (i) Adding the words “and precious metal positions” immediately preceding the words “that are being relied upon”;
- (ii) Adding the words “and precious metal positions” immediately preceding the words “where a concentration”; and
- (iii) Deleting the word “issuer” immediately preceding the words “positions must be listed”.

(b) In Note 2, adding the text “, a precious metal position must include all certificates and bullion of the particular precious metal (gold, platinum or silver)” immediately preceding the word “where”.

(c) In Note 3:

- (i) Adding the words “and precious metals” immediately following the text “3. Securities”;
- (ii) Adding the words “or precious metal position” immediately following the words “not be included in the issuer position”;
- (iii) Adding the words “and precious metals” immediately following the word “Securities” at the beginning of the second sentence; and
- (iv) Adding the words “and precious metal position” immediately following the words “must be included in the issuer position”.

(d) In Note 6(a), adding the words “and precious metal positions” immediately following the words “security positions”.

(e) In Note 7(a), adding the words “and precious metal positions” immediately following the words “security positions”.

(f) In Note 8:

(i) In Note 8(c):

- (I) Adding the words “or a precious metal position” immediately preceding the words “(net of issuer securities”;
- (II) Adding the words “or precious metal position” immediately following the words “(net of issuer securities”; and
- (III) Adding the words “or precious metal position” immediately following the words “in the case of an issuer position”.

and



- (ii) In Note 8(d):
  - (I) Adding in Note 8(d)(i) the words “and precious metal positions” immediately following the words “Security positions”;
  - (II) Adding in Note 8(d)(ii) the words “and precious metal positions” immediately following the words “Security positions”;
  - (III) Adding in Note 8(d)(ii) the words “or precious metal positions” immediately following the words “is securities”; and
  - (IV) Adding in Note 8(d)(vi) the words “or precious metal positions” immediately following the words “Any security positions”.

(g) In Note 9:

- (i) In Note 9(c):
  - (I) Adding the words “or a precious metal position” immediately following the words “described in note 9(a), or 9(b)”;
  - (II) Adding the words “or precious metal position” immediately following the words “such issuer securities”; and
  - (III) Adding the words “or precious metal position” immediately following the words “the issuer security(ies)”.
- (ii) In Note 9(d):
  - (I) Adding in Note 9(d)(ii) the words “or a precious metal position” immediately preceding the words “exceeds one-half”;
  - (II) Adding in Note 9(d)(iii) the words “or precious metal position” immediately following the words “any other issuer”;
  - (III) Adding in Note 9(d)(iv) the words “or precious metal position” immediately following the words “other issuer position”;
  - (IV) Adding in Note 9(d)(iv) the words “or precious metal position” immediately following the words “the other issuer”; and
  - (V) Adding in Note 9(d)(iv) the words “or precious metal position” immediately following the words “value of the security(ies)”.

and

- (iii) In Note 9(e), adding the words “and precious metal positions” immediately following the words “five issuer positions”.

and

(h) In Note 10:

- (i) Note 10(a), adding the words “or a precious metal position” immediately following the words “exposure in a security”; and
- (ii) Note 10(b), adding the words “or precious metal positions” immediately following the words “whether securities”.

6. Note 3 of the Notes and Instructions to Schedule 10 of Form 1 is amended by:

- (a) Replacing the words “and securities” immediately preceding the words “securities owed to the client” with the words “, securities, and other acceptable property”;

- (b) Replacing the words “and securities” immediately preceding the words “securities owed by the client” with the words “, securities, and other acceptable property”;
- (c) Adding the following words immediately following the words “treated as separate accounts.”:  
“Other acceptable property means London Bullion Market Association good delivery bars of gold and silver bullion that are acceptable for margin purposes as defined in Regulation 100.2(i)(ii).”

**Subsequent to the implementation of the new methodology for margining equity securities**

7. Subsection 100.2(i) of Regulation 100 is further amended by:

- (a) In subparagraph 100.2(i)(i)
  - (i) Replacing the text “Gold: 20% of market value” with the following text:  
“Gold, platinum and silver: the published long position basic margin rate for the metal as approved by a recognized self-regulatory organization, multiplied by the market value of the metal certificate position.”  
  
and
  - (ii) Deleting the following text:  
“Platinum: 20% of market value  
Silver: 20% of market value”  
  
and
- (b) In subparagraph 100.2(i)(ii)
  - (i) Replacing the text “Gold: 20% of market value” with the following text:  
“Gold and silver: the published long position basic margin rate for the metal as approved by a recognized self-regulatory organization, multiplied by the market value of the metal bullion position.”  
  
and
  - (ii) Deleting the following text:  
“Silver: 20% of market value”

BE IT RESOLVED THAT the Board of Directors adopt, on this 30<sup>th</sup> day of January, 2008, the English and French versions of these amendments. The Board of Directors also authorizes the Association Staff to make the minor changes that shall be required from time to time by the securities administrators with jurisdiction. These amendments shall take effect on the date determined by the Association Staff.

INVESTMENT DEALERS ASSOCIATION OF CANADA  
MARGIN REQUIREMENTS FOR PRECIOUS METALS – REGULATIONS 100.2, 100.20, 400.4 AND FORM 1

BLACK-LINE OF AMENDMENTS

Prior to the implementation of the new methodology for margining equity securities

1. Subsection 100.2(i) of Regulation 100

(i) Precious Metal Certificates and Bullion

(i) On negotiable certificates issued by Canadian chartered banks and trust companies authorized to do business in Canada evidencing an interest in precious metals:

Gold: ~~40%~~20% of market value

Platinum and silver: ~~45%~~20% of market value

Silver: 20% of market value

On silver certificates approved by Intermarket Services Inc. held by a Member, margin shall be 25% of market value."

(ii) On bullion purchased by a Member, for its inventory or on behalf of a client, from the Royal Canadian Mint or a Canadian chartered bank that is a market making member or ordinary member of the London Bullion Market Association (LBMA); and a written representation from them stating that the bullion purchased are LBMA good delivery bars:

Gold: 20% of market value

Silver: 20% of market value

2. Section 100.20 of Regulation 100

**100.20 Concentration of Securities**

(a) For the purposes of this paragraph:

(i) "Amount Loaned" includes:

(A) In respect of long positions:

1. The loan value of long securities and precious metals in margin accounts on settlement date;
2. The loan value of long securities and precious metals in a regular settlement cash account when any portion of the account is outstanding after settlement date;
3. The loan value of long securities and precious metals in a delivery against payment cash account when such securities and precious metals are outstanding after settlement date;
4. The loan value of long inventory positions on trade date; and
5. The loan value of new issues carried in inventory 20 business days after new issue settlement date.

(B) In respect of short positions:

1. The market value of short positions in margin accounts on settlement date;

2. The market value of short positions in a regular settlement cash account when any portion of the account is outstanding after settlement date;
  3. The market value of short positions in a delivery against payment cash account when such securities are outstanding after settlement date; and
  4. The market value of short inventory securities on trade date.
- (ii) **“Security”** includes:
- (A) all long and short positions in equity and convertible securities of an issuer; and
  - (B) all long and short positions in debt or other securities, other than debt securities with a margin requirement of 10% or less.
- (iii) **“Precious metal”** includes:
- (A) long positions in certificates evidencing an interest in gold, platinum or silver that are acceptable for margin purposes as defined in Regulation 100.2(i)(i); and
  - (B) long positions in London Bullion Market Association (LBMA) gold or silver good delivery bars that are acceptable for margin purposes as defined in Regulation 100.2(i)(ii).
- (iiiiv) **“Risk Adjusted Capital”** means a Member’s risk adjusted capital as calculated before the securities concentration charge (Statement B, Line 25 on Form 1) plus minimum capital (Statement B, Line 6 of Form 1).
- (b) For the purposes of calculating the amount loaned:
- (i) Security positions that qualify for margin offsets pursuant to Regulation 100, as applicable, may be netted;
  - (ii) Separate calculations must be made for long security positions and short security positions. The greater of the long or short position must be used in the calculations below;
  - (iii) In calculating the total amount loaned for each customer on long (or short) positions on any one security, there may be deducted from the loan value (market value) of the long (or short) position:
    - (A) Any excess margin in the customer’s account; and
    - (B) 25% of the market value of long positions in any non-marginable securities in the account provided such securities are carried in readily saleable quantities only.
  - (iv) In calculating the amount loaned on long positions for a customer, where such customer (the “guarantor”) has guaranteed another customer account (the “guaranteed account”), any securities and precious metal in the guarantor’s account which are used to reduce margin required in the guaranteed account in accordance with Regulation 100.14, shall be included in calculating the amount loaned on each security and precious metal for the purposes of the guarantor’s account;
  - (v) The values of trades made with acceptable institutions, acceptable counterparties and regulated entities that are outstanding 10 business days past settlement date and are:
    - (A) Not confirmed for clearing through a recognized clearing corporation; or
    - (B) Not confirmed by the acceptable institution, acceptable counterparty or a regulated entity,Must be included in the calculation below in the same manner as delivery against payment cash accounts; and
  - (vi) The value of trades made with a financial institution that is not an acceptable institution, acceptable counterparty or regulated entity, outstanding less than 10 business days past settlement date, may be excluded from the calculation below if each such trade was confirmed on or before settlement date with a settlement agent that is an acceptable institution or acceptable counterparty.

- (c) (i) Subject to subclause (ii) below, where the total amount loaned by a Member on any one security or precious metal for all customers and/or inventory accounts, as calculated hereunder, exceeds an amount equal to two-thirds of the sum of the Member's risk adjusted capital, before securities concentration charge and minimum capital, as most recently calculated for more than five business days, an amount equal to 150% of the excess of the amount loaned over two-thirds of the sum of the Member's risk adjusted capital, before securities concentration charge and minimum capital (Statement B, Line 6 of Form 1), shall be deducted from the risk adjusted capital of the Member. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the security or precious metal for which the charge is incurred.
- (ii) Notwithstanding subclause (i) above, where the loaned security issued by
- (A) The Member, or
- (B) A company, where the accounts of a Member are included in the consolidated financial statements and where the assets and revenues of the Member constitute more than 50% of the consolidated assets and 50% of the consolidated revenue, respectively, the company, based on the amounts shown in the audited consolidated financial statements of the company and the Member for the preceding fiscal year,
- And the total amount loaned by the Member on any one such security, as calculated hereunder, exceeds an amount equal to one third of the Member's risk adjusted capital before securities concentration charge plus minimum capital as most recently calculated for more than five business days, an amount equal to 150% of the excess of the amount loaned over one-third of the sum of the Member's risk adjusted capital before securities concentration charge and minimum capital shall be deducted from the risk adjusted capital of the Member.
- (d) Where the total amount loaned by a Member on any one security or precious metal for all customers and/or inventory accounts as calculated hereunder exceeds an amount equal to one half of the sum of the Member's risk adjusted capital before securities concentration charge and minimum capital as most recently calculated, and the amount loaned on any other security or precious metal which is being carried by a Member for all customers and/or inventory accounts as calculated hereunder, exceeds an amount equal to one-half of the sum of the Member's risk adjusted capital before securities concentration charge and minimum capital as most recently calculated for more than five business days, an amount equal to 150% of the excess of the amount loaned on the other security or precious metal over one-half of the Member's risk adjusted capital shall be deducted from the risk adjusted capital of the Member. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the security or precious metal for which the charge is incurred.
- (e) For the purposes of calculating the concentration charges as required by paragraphs (c) and (d) above, such calculations shall be performed for the first five securities and precious metals in which there is a concentration.
- (f) Where the capital charges described in subsections (c) and (d) would result in a capital deficiency or a violation of the rule permitting designation in early warning pursuant to By-law 30, the Member must report the over-concentration situation to the appropriate Joint Regulatory Bodies on the date the over-concentration first occurs.

**3. Subsection 400.4(i) of Regulation 400**

400.4 Amounts Required - The minimum amount of insurance to be maintained for each Clause under Regulation 400.2 shall be the greater of:

- (a) \$500,000, or, in the case of an Introducing Type 1 arrangement, \$200,000; and
- (b) 1% of the base amount (as defined herein), or in the case of Introducing Types 1 and 2 arrangements, ½% of the base amount;

provided that for each Clause such minimum amount need not exceed \$25,000,000.

For the purposes of this Regulation 400, the term "base amount" shall mean the greater of:

- (i) The aggregate of net equity for each customer determined as the total value of cash and securities, securities, and other acceptable property (as defined in Schedule 10 of Form 1) owed to the customers by the Member less the total value of cash and securities, securities, and other acceptable property (as defined in Schedule 10 of Form 1) owed by the customers to the Member; and
- (ii) The aggregate of total liquid assets and total other allowable assets of the Member determined in accordance with Statement A of Form 1.

**4. The General Notes and Definitions to Form 1**

- (d) **"acceptable securities locations"** means those entities considered suitable to hold securities on behalf of a Member, for both inventory and client positions, without capital penalty, given that the locations meet the requirements outlined in the segregation bylaws, rules or regulations of the Joint Regulatory Bodies including, but not limited to, the requirement for a written custody agreement outlining the terms upon which such securities are deposited and including provisions that no use or disposition of the securities shall be made without the prior written consent of the Member and the securities can be delivered to the Member promptly on demand.

For London Bullion Market Association (LBMA) gold and silver good delivery bars, means those entities considered suitable to hold these bars on behalf of a Member, for both inventory and client positions, without capital penalty. These entities must:

- be a market making member, ordinary member or associate member of the LBMA;
- be on the SROs list of entities considered suitable to hold LBMA gold and silver good delivery bars; and
- have executed a written precious metals storage agreement with the Member, outlining the terms upon which such LBMA good delivery bars are deposited. The terms must include provisions that no use or disposition of these bars shall be made without the written prior consent of the Member, and these bars can be delivered to the Member promptly on demand. The precious metals storage agreement must provide equivalent rights and protection to the Member as the standard securities custodial agreement.

The entities are as follows:

1. Depositories or Clearing Agencies

Securities depositories or clearing agencies incorporated or organized under the laws of Canada, the United States or other foreign country and operating a central system for handling securities or equivalent book-based entries in that country and subject to enabling legislation by a central government authority in the country of operation that provides for compliance and powers of enforcement over its members.

The SROs will maintain and regularly update a list of those depositories or clearing agencies that comply with these criteria.

- 2. (a) Acceptable Institutions which in their normal course of business offer custodial security services; or
- (b) Subsidiaries of Acceptable Institutions provided that each such subsidiary, together with the Acceptable Institution, has entered into a custodial agreement with the member containing a legally enforceable indemnity by the Acceptable Institution in favour of the Member covering all losses, claims, damages, costs and liabilities in respect of securities and other property held for the Member and its clients at the subsidiary's location.
- 3. Acceptable Counterparties - with respect to security positions maintained as a book entry of securities issued by the Acceptable Counterparty and for which the Acceptable Counterparty is unconditionally responsible.
- 4. Banks and Trust Companies otherwise classified as Acceptable Counterparties - with respect to securities for which they act as transfer agent and for which custody services are not being provided (in such case, a written custody agreement is not required).

5. Mutual Funds or their Agents - with respect to security positions maintained as a book entry of securities issued by the mutual fund and for which the mutual fund is unconditionally responsible.
6. Regulated entities.
7. Foreign institutions and securities dealers that satisfy the following criteria:
  - (a) the paid-up capital and surplus according to its most recent audited balance sheet is in excess of Cdn. \$150 million as evidenced by the audited financial statements of such entity;
  - (b) in respect of which a foreign custodian certificate has been completed and signed in the prescribed form by the Member's board of directors or authorized committee thereof;

provided that:

- (c) a formal application in respect of each such foreign location is made by the Member to the relevant joint regulatory authority in the form of a letter enclosing the financial statements and certificate described above; and
- (d) the Member reviews each such foreign location annually and files a foreign custodian certificate with the appropriate joint regulatory authority annually.

and such other locations which have been approved as acceptable securities locations by the Joint Regulatory Body having prime jurisdiction over the Member.

(f) "market value of securities" means:

1. for listed securities, the last bid price of a long security and, correspondingly, the last ask price of a short security, as shown on the exchange quotation sheets as of the close of business on the relevant date or last trading date prior to the relevant date, as the case may be, subject to an appropriate adjustment where an unusually large or unusually small quantity of securities is being valued. If not available, the last sale price of a board lot may be used. Where not readily marketable, no market value shall be assigned.
2. for unlisted and debt securities, and precious metals bullion, a value determined as reasonable from published market reports or inter-dealer quotation sheets on the relevant date or last trading day prior to the relevant date, or based on a reasonable yield rate. Where not readily marketable, no market value shall be assigned.
3. for commodity futures contracts, the settlement price on the relevant date or last trading day prior to the relevant date.
4. for money market fixed date repurchases (no borrower call feature), the market price is the price determined by applying the current yield for the security to the term of maturity from the repurchase date. This will permit calculation of any profit or loss based on the market conditions at the reporting date. Exposure due to future changes in market conditions is covered by the margin rate.
5. for money market open repurchases (no borrower call feature), prices are to be determined as of the reporting date or the date the commitment first becomes open, whichever is the later. Market price is to be determined as in 4. and commitment price is to be determined in the same manner using the yield stated in the repurchase commitment.
6. for money market repurchases with borrower call features, the market price is the borrower call price.

5. The Notes and Instructions to Schedule 9 of Form 1

**SCHEDULE 9**

**NOTES AND INSTRUCTIONS**

**General**

1. The purpose of this schedule is to disclose the largest ten issuer positions and precious metal positions that are being relied upon for loan value whether or not a concentration charge applies. If there are more than ten issuer positions and precious metal positions where a concentration exposure exists, then all such issuer positions must be listed on the schedule.
2. For the purpose of this schedule, an issuer position must include all classes of securities for an issuer (i.e. all long and short positions in equity, convertibles, debt or other securities of an issuer other than debt securities with a normal margin requirement of 10% or less), a precious metal position must include all certificates and bullion of the particular precious metal (gold, platinum or silver) where:
  - loan value is being extended in a margin account, cash account, delivery against payment account, receipt against payment account; or
  - an inventory position is being held.
3. Securities and precious metals that are required to be in segregation or safekeeping should not be included in the issuer position or precious metal position. Securities and precious metals that have been segregated, but are not required to be, can still be relied on by the Member for loan value, and must be included in the issuer position and precious metal position.
4. For the purpose of this schedule only, stripped coupons and residuals, [if they are held on a book based system, and are in respect of federal and provincial debt instruments], should be margined at the same rate as the underlying security.
5. For short positions, the loan value is the market value of the short position.

**Client position**

6. (a) Client positions are to be reported on a settlement date basis for client accounts including positions in margin accounts, regular cash accounts [when any transaction in the account is outstanding after settlement date] and delivery against payment and receipt against payment accounts [when any transaction in the account is outstanding after settlement date]. Within each client account, security positions and precious metal positions that qualify for a margin offset may be eliminated.
- (b) Positions in delivery against payment and receipt against payment accounts with Acceptable Institutions, Acceptable Counterparties, or Regulated Entities resulting from transactions that are outstanding less than ten business days past settlement date are not to be included in the positions reported. If the transaction has been outstanding ten business days or more past settlement and is not confirmed for clearing through an Acceptable Clearing Corporation or not confirmed by the Acceptable Institution, Acceptable Counterparty or Regulated Entity, then the position must be included in the position reported.

**Firm's own position**

7. (a) Firm's own inventory positions are to be reported on a trade date basis, including new issue positions carried in inventory twenty business days after new issue settlement date. All security positions and precious metal positions that qualify for a margin offset may be eliminated.
- (b) The amount reported must include uncovered stock positions in market-maker accounts.

**Amount Loaned**

8. The client and firm's own positions reported are to be determined based on the combined client/firm's own long or short position that results in the largest amount loaned exposure.



- (a) To calculate the combined amount loaned on the long position exposure, combine:
- the loan value of the gross long client position (if any) contained within client margin accounts;
  - the weighted market value (calculated pursuant to the weighted market value calculation set out in Schedule 4, Note 9, Cash Accounts Instruction (a)) and/or loan value (calculated pursuant to the loan value calculation set out in Schedule 4, Note 9, Cash Accounts Instruction (b)) of the gross long client position (if any) contained within client cash accounts;
  - the market value (calculated pursuant to the market value calculation set out in Schedule 4, Note 9, DAP and RAP Accounts Instruction (a)) and/or loan value (calculated pursuant to the loan value calculation set out in Schedule 4, Note 9, DAP and RAP Accounts Instruction (b)) of the gross long client position (if any) contained within client delivery against payment accounts; and
  - the loan value (calculated pursuant to the Notes and Instructions to Schedule 2) of the net long firm's own position (if any).
- (b) To calculate the combined amount loaned on the short position exposure, combine
- the market value of the gross short client position (if any) contained within client margin, cash and receipt against payment accounts; and
  - the market value of the net short firm's own position (if any).
- (c) If the loan value of an issuer position or a precious metal position (net of issuer securities or precious metal position required to be in segregation/safekeeping) does not exceed one-half (one-third in the case of an issuer position or precious metal position which qualifies under either Note 9(a) or 9(b) below) of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4) as most recently calculated, the completion of the column titled "Adjustments in arriving at Amount Loaned" is optional. However, nil should be reflected for the concentration charge.
- (d) In determining the amount loaned on either a long, or short position exposure, the following adjustments may be made:
- (i) Security positions and precious metal positions that qualify for a margin offset may be excluded, as previously discussed in notes 6(a) and 7(a);
  - (ii) Security positions and precious metal positions that represent excess margin in the client's account may be excluded. (Note if the starting point of the calculations is securities or precious metal positions not required to be in segregation/safekeeping, this deduction has already been included in the loan value calculation of Column 6.);
  - (iii) In the case of margin accounts, 25% of the market value of long positions in any: (a) non-marginable securities or, (b) securities with a margin rate of 100%, in the account may be deducted from the amount loaned calculation, provided that such securities are carried in readily saleable quantities only;
  - (iv) In the case of cash accounts, 25% of the market value of long positions in any securities whose market value weighting is 0.000 (pursuant to Schedule 4, Note 9, Cash Accounts Instruction (a)) in the account may be deducted from the amount loaned calculation, provided that such securities are carried in readily saleable quantities only;
  - (v) The amount loaned values of trades made with financial institutions that are not Acceptable Institutions, Acceptable Counterparties or Regulated Entities, if the trades are outstanding less than 10 business days past settlement date, and the trades were confirmed on or before settlement date with a settlement agent that is an Acceptable Institution may be deducted from the amount loaned calculation; and
  - (vi) Any security positions or precious metal positions in the client's (the "Guarantor") account, which are used to reduce the margin required in another account pursuant to the terms of a

guarantee agreement, shall be included in calculating the amount loaned on each security for the purposes of the Guarantor's account.

- (e) Amount Loaned is the position exposure (either long or short) with the largest calculated amount loaned.

### Concentration Charge

- 9. (a) Where the Amount Loaned reported relates to securities issued by
  - (i) the Member, or
  - (ii) a company, where the accounts of a Member are included in the consolidated financial statements and where the assets and revenue of the Member constitute more than 50% of the consolidated assets and 50% of the consolidated revenue, respectively, of the company, based on the amounts shown in the audited consolidated financial statements of the company and the Member for the preceding fiscal year and the total Amount Loaned by a Member on such issuer securities exceeds one-third of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4), as most recently calculated, a concentration charge of an amount equal to 150% of the excess of the Amount Loaned over one-third of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4) is required unless the excess is cleared within five business days of the date it first occurs. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the issuer security(ies) for which such charge is incurred.
- (b) Where the Amount Loaned reported relates to non-marginable securities of an issuer held in a cash account(s), where loan value has been extended pursuant to the weighted market value calculation set out in Schedule 4, Note 9, and the total Amount Loaned by a Member on such issuer securities exceeds one-third of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4), as most recently calculated, a concentration charge of an amount equal to 150% of the excess of the Amount Loaned over one-third of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4) is required unless the excess is cleared within five business days of the date it first occurs. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the issuer security(ies) for which such charge is incurred.
- (c) Where the Amount Loaned reported relates to arm's length marginable securities of an issuer (i.e., securities other than those described in note 9(a), or 9(b)) or a precious metal position, and the total Amount Loaned by a Member on such issuer securities or precious metal position exceeds two-thirds of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4), as most recently calculated, a concentration charge of an amount equal to 150% of the excess of the Amount Loaned over two-thirds of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4) is required unless the excess is cleared within five business days of the date it first occurs. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the issuer security(ies) or precious metal position for which such charge is incurred.
- (d) Where:
  - (i) The Member has incurred a concentration charge for an issuer position under either note 9(a) or 9(b) or 9(c); or
  - (ii) The Amount Loaned by a Member on any one issuer (other than issuers whose securities may be subject to a concentration charge under either Note 9(a) or 9(b) above) or a precious metal position exceeds one-half of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4), as most recently calculated; and
  - (iii) The Amount Loaned on any other issuer or precious metal position exceeds one-half (one-third in the case of issuers whose securities may be subject to a concentration charge under either Note 9(a) or 9(b) above) of the sum of Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4); then

- (iv) A concentration charge on such other issuer position or precious metal position of an amount equal to 150% of the excess of the Amount Loaned on the other issuer or precious metal position over one-half (one-third in the case of issuers whose securities may be subject to a concentration charge under either Note 9(a) or 9(b) above) of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4) is required unless the excess is cleared within five business days of the date it first occurs. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the security(ies) or precious metal position for which such charge is incurred.
- (e) For the purpose of calculating the concentration charges as required by notes 9(a), 9(b), 9(c) and 9(d) above, such calculations shall be performed for the largest five issuer positions and precious metal positions by Amount Loaned in which there is a concentration exposure.

**Other**

- 10. (a) Where there is an over exposure in a security or a precious metal position and the concentration charge as referred to above would produce either a capital deficiency or a violation of the Early Warning Rule, the Member must report the over exposure situation to the appropriate Joint Regulatory Body on the date the over exposure first occurs.
- (b) A measure of discretion is left with the Joint Regulatory Bodies in dealing with the resolution of concentration situations, particularly as regards to time requirements for correcting any over exposure, as well as whether securities or precious metal positions are carried in "readily saleable quantities".

**6. Note 3 of the Notes and Instructions to Schedule 10 of Form 1**

- 3. Net equity for each client is the total value of cash, ~~and securities~~ securities, and other acceptable property owed to the client by the Member less the value of cash, ~~and securities~~ securities, and other acceptable property owed by the client to the Member. In determining net equity, accounts of a client such as cash, margin, short sale, options, futures, foreign currency and Quebec Stock Savings Plans are combined and treated as one account. Accounts such as RRSP, RRIF, RESP, Joint accounts are not combined with other accounts and are treated as separate accounts. Other acceptable property means London Bullion Market Association good delivery bars of gold and silver bullion that are acceptable for margin purposes as defined in Regulation 100.2(i)(ii).

Net equity is determined on a client by client basis on either a settlement date basis or trade date basis. Schedule 10 Part A line 1(a) is the aggregate net equity for each client. Negative client net equity, (i.e. total deficiency in net equity owed to the Member by the client) is not included in the aggregate.

For Schedule 10, guarantee/guarantor agreements should not be considered in the calculation of net equity.

The Client Net Equity calculation should include all retail and institutional client accounts, as well as accounts of broker dealers, repos, loan post, broker syndicates, affiliates and other similar accounts.

**Subsequent to the implementation of the new methodology for margining equity securities**

**7. Subsection 100.2(i) of Regulation 100 (further amendments)**

**(i) Precious Metal Certificates and Bullion**

- (i) On negotiable certificates issued by Canadian chartered banks and trust companies authorized to do business in Canada evidencing an interest in precious metals:

Gold, platinum and silver: ~~\_\_\_\_\_ 20% of market value~~ the published long position basic margin rate for the metal as approved by a recognized self-regulatory organization, multiplied by the market value of the metal certificate position.

Platinum: ~~\_\_\_\_\_ 20% of market value~~

Silver: ~~20% of market value~~

- (ii) On bullion purchased by a Member, for its inventory or on behalf of a client, from the Royal Canadian Mint or a Canadian chartered bank that is a market making member or ordinary member of the London Bullion Market Association (LBMA); and a written representation from them stating that the bullion purchased are LBMA good delivery bars:

Gold and silver: ~~20% of market value~~ the published long position basic margin rate for the metal as approved by a recognized self-regulatory organization, multiplied by the market value of the metal bullion position.

Silver: ~~20% of market value~~