

April 29, 2020

Submitted via Email

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Re: Request for flexibility on acceptable signatures for W-9s

Dear Sirs and Mesdames:

The Investment Industry Association of Canada¹ (the “IIAC”) is the national association representing approximately 120 IROC-regulated investment dealer members in the Canadian securities industry.

¹ For more information visit, <http://www.iiac.ca>

During this unprecedented global COVID-19 crisis, the IIAC is requesting signature relief for financial institutions (“FIs”) as they comply with government mandated work-related operational changes to “flatten the curve” and ensure the safety of their employees and clients.

I. Overview

IIAC Members that are Qualified Intermediaries (“QIs”) are required to obtain the Form W-9, Request for Taxpayer Identification Number and Certification (“W-9”) for U.S. clients who hold securities in an account for which the QI acts as a QI. Many other IIAC Members use the W-9 for FATCA compliance purposes. This form is crucial to allow Canadian FIs to open accounts for U. S. clients.

As a result of concerns related to the global COVID-19 pandemic, many FIs have had to activate business continuity plans. Throughout Canada, there are various government orders related to social distancing, and some provinces and cities have declared states of emergency². This has resulted in a number of changes and closures which are impacting FIs’ ability to open accounts face-to-face. For example, most FIs are requiring personnel to work from home where possible, and personnel may be reduced where remote access is not available. Certain branches and office buildings have been closed. Various Canadian securities regulators have issued relief for FIs with respect to account opening procedures recognizing the necessity of non-face-to-face openings during the COVID-19 pandemic³. Consequently, many FIs have adopted digital procedures to collect account documentation.

II. Flexibility for W-9 Signatures

IIAC Members have received queries from U.S. clients that have asked whether they can electronically sign the W-9, given requests for self-isolation, no access to printers, and hesitation or inability to enter a branch. There are also concerns around most FIs’ inability to receive and validate paper-based forms as access to mail for documents that currently require a wet signature is significantly limited as some offices are not open with mail being diverted, and potential postal delays. It is very difficult, if not impossible, for FIs to open accounts for U.S. clients in accordance with current Form W-9 requirements and simultaneously comply with government advice and obligations related to the health and safety of clients and employees.

In order to provide reasonable and safe alternatives that ensure full documentation within the confines of these many challenges, we request certain relief.

We first request that the rules regarding the acceptance of electronic signatures permitted for Form W-8s be accepted for W-9s⁴. While this will assist with the immediate COVID-19 concerns, we also believe

² For example, the province of Ontario declared a state of emergency on March 17, 2020, and the province of British Columbia declared a state of emergency on March 18, 2020.

³ IIROC exemptions Notice https://www.iiroc.ca/Documents/2020/87c0bab1-4ab3-4bf5-b879-593b3bfa860c_en.pdf

⁴ Forms W-8 Instructions <https://www.irs.gov/instructions/iw8>

that this change should be made permanent. This request is in alignment with the IRS' plans to accelerate the use of e-signatures as noted in the 2019 IRSAC Public Report⁵.

Specifically we ask that the IRS permit FIs to:

- Accept a Form W-9 with an electronic signature if the Form W-9 reasonably demonstrates that the form has been electronically signed by a person authorized to do so (for example, with a time and date stamp and statement that the form has been electronically signed). Similar to guidance for Form W-8, the FIs may not treat a Form W-9 with a typed name in the signature line as validly signed without further information supporting that the signature is an electronic signature.

We also request broader temporary relief of the overly burdensome wet signature requirements during the COVID-19 pandemic. We appreciate other temporary relief provided by the IRS for taxpayers and FIs in recognition of the challenges wet signatures pose⁶. Specifically we request the IRS:

- Expand the scope of an approved electronic signature to include an email from the form signer making express reference to the specific form (e.g., pdf attached) and individual or entity name (where applicable), confirming capacity to sign such form, and stating "this message shall be treated as signature on such form." The withholding agent or other party relying on a particular form would be permitted to treat the email as a statement attached to the form.

We also believe it is important to note that W-9s are not submitted to the IRS. Therefore these requested changes would not require any system changes for the IRS in terms of their ability to accept documents. These documents are maintained by the FI in account document files.

II. Conclusion

We appreciate your consideration of our request in this unprecedented time. In addition, IIAC Members welcome the opportunity to further discuss the operational challenges they face related as a result of COVID-19. Please do not hesitate to contact myself at awalrath@iiac.ca or (416)-220-4648 for any clarifications or additional questions regarding this submission. Thank you.

Yours Sincerely,

"Adrian Walrath"

Adrian Walrath
Director
Investment Industry Association of Canada

⁵ IRSAC Report <https://www.irs.gov/pub/irs-prior/p5316--2019.pdf>

⁶ IRS Report <https://www.irs.gov/pub/foia/ig/spder/nhq-01-0320-0001.pdf>

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