

Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 Notice and Request for Comments - Joint Application of CIPF and the IDA

NOTICE AND REQUEST FOR COMMENTS JOINT APPLICATION OF CIPF AND THE IDA

A. Application

The Canadian Investor Protection Fund (CIPF) and the Investment Dealers Association of Canada (IDA) have applied to each member of the Canadian Securities Administrators (CSA) to amend the Memorandum of Understanding (MOU) between CIPF and the CSA and have applied to the Commission to amend its order approving CIPF as a compensation fund (Approval Order), to reflect the realignment of their regulatory roles and responsibilities.

The Commission is publishing the joint application of CIPF and the IDA (Joint Application) for comment together with the following related documents:

1. An amended By-law Number 1 of CIPF;
2. An amended and restated MOU between CIPF and the CSA; and
3. An amended and restated Approval Order.

The Joint Application seeks the CSA's approval of the realignment of the regulatory roles and responsibilities between CIPF and the IDA. The realignment would result in CIPF focusing on its primary functions of risk management, administration of member insolvencies, and payment of customer losses. CIPF would no longer have an oversight role over the IDA.

B. Proposed Approval Order and MOU

In response to the Joint Application, staff revised the current approach to regulatory oversight of CIPF in light of the approach to oversight of other regulated entities. Staff has proposed changes to the Approval Order and MOU to make them more consistent with those of other regulated entities. The amended MOU will focus on matters of coordination of CSA oversight and CIPF's reporting obligations. Other provisions that impose requirements on CIPF that are in the current MOU have been moved to the Approval Order.

The amended and restated Approval Order will establish terms and conditions for CIPF in the following areas:

1. Corporate governance
2. Funding and maintenance of CIPF
3. Customer protection
4. Financial and operational viability
5. Risk management
6. The Industry Agreement between CIPF and the IDA
7. Assistance to a Participating SRO
8. Collection of information
9. The MOU between CIPF and the CSA

C. Comment Process

We are seeking comments on the Joint Application and related documents. You are asked to provide your comments in writing and to send them on or before **April 7, 2008** to:

Ontario Securities Commission
c/o John Stevenson, Secretary
20 Queen Street West
Suite 1903, Box 55
Toronto, Ontario M5H 3S8
E-mail: jstevenson@osc.gov.on.ca

The confidentiality of submissions cannot be maintained because securities legislation in certain provinces requires that a summary of written comments received during the comment period be published.

If you have questions, you may contact:

Barbara Fydell
Ontario Securities Commission
(416) 593-8253

Christopher Byers
Ontario Securities Commission
(416) 593-2350

February 26, 2008

Ms. Brenda Leong
Executive Director
British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
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Securities Commission of Newfoundland
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Mr. William Rice, Chair
Alberta Securities Commission
300 – 5th Avenue S.W.
4th Floor
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Office of the Attorney General
Registrar of Securities
P.O. Box 2000, 95 Rochford Street
5th Floor, Shaw Building
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Ms. Barbara Shourounis
Executive Director
Saskatchewan Financial Services Commission
1919 Saskatchewan Drive, 6th Floor
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New Brunswick Securities Commission
85 Charlotte Street
Suite 300
Saint John, New Brunswick
E2L 2J2

Mr. Donald G. Murray, Chair
Manitoba Securities Commission
500-400 St. Mary Avenue
Winnipeg, Manitoba
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Securities Registry
Department of Justice
1st Floor Stuart M. Hodgson Building
5009-49th Street
Government of Northwest Territories
Yellowknife, Northwest Territories X1A 2L9

Mr. John Stevenson
Secretary to the Commission
Ontario Securities Commission
20 Queen Street West
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Yukon Justice
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Mr. Jean St. Gelais
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Nunavut Legal Registries
Department of Justice
Legal Registries Division
P.O. Box 1000 - Station 570
1st Floor, Brown Building
Iqaluit, Nunavut X0A 0H0

Mr. H. Leslie O'Brien, Q.C., Chair
Nova Scotia Securities Commission
Joseph Howe Building
P.O. Box 458, 2nd Floor
1690 Hollis Street
Halifax, Nova Scotia B3J 3J9

Dear Sirs/Mesdames:

Re: Alignment of Regulatory Relationship between the Investment Dealers Association of Canada and Canadian Investor Protection Fund

This letter constitutes the joint application ("Application") of the Investment Dealers Association of Canada / Association canadienne des courtiers en valeurs mobilières (the "IDA") and Canadian Investor Protection Fund / Fonds canadien de protection des épargnants ("CIPF") to each of the securities commissions addressed above (collectively, the "Commissions" and each a "Commission") for the variation orders and approvals, as the case may be, described below in connection with the realignment of the respective regulatory responsibilities and roles of the IDA and CIPF, and consequential amendments to the current oversight arrangements that each of the IDA and CIPF has with the relevant Commissions (the "Realignment").

ORDERS AND APPROVALS SOUGHT

Required

In order to effect the Realignment the following orders and/or approvals, as the case may be, will be required:

In respect of CIPF:

1. Approval to amend and restate the Memorandum of Understanding dated various dates in 2002 between CIPF and each of the Commissions (and by separate Memorandum of Understanding with the Quebec Securities Commission dated October 16, 2002) (together, the "CIPF MOU"); and
2. Variation of orders/approvals by the relevant Commissions approving or designating CIPF as a protection plan for customers of investment dealers pursuant to the applicable legislation (the "CIPF Approval Orders").

The specific legislative authority for each Commission in respect of the subject of this Application (including the relevant securities or commodity futures legislation) and identification of particulars of the IDA Oversight Agreement, CIPF MOU and CIPF Approval Orders are set out in Schedule A to this Application.

In respect of the IDA, approval to enact new IDA By-law 41 and amend By-law 21 and Form 1 to implement aspects of the Realignment will be required. Application for such approval has been made pursuant to the current IDA Joint Rule Protocol which is part of the IDA Oversight Agreement.

The Applicants are of the view that no immediate amendments or variations are required in respect of the orders/approvals by the relevant Commissions recognizing the IDA as a self-regulatory organization pursuant to the applicable legislation (together the "IDA Recognition Orders"). Such Orders refer to CIPF's oversight role but the Orders are permissive with respect to CIPF's authority and specifically contemplate that such role may be performed by the Commissions as contemplated by this Application.

The Application

This Application contemplates the fact that the IDA and Market Regulation Services, Inc. ("RS") have applied to the Commissions for approval of the combination of the member and market regulatory functions of the IDA and RS, respectively, into a single, new self-regulatory organization ("New Regco"). This Application is intended to be considered and, if acceptable, the orders/approvals granted separately from the application with respect to New Regco. If and when New Regco is approved by the Commissions and is effected as proposed, it would be expected that the arrangements proposed in this Application between the IDA and CIPF would continue as between New Regco and CIPF. Appropriate amendments to the relevant orders, approvals, by-laws and agreements contemplated by this Application will be sought and/or made to substitute, in effect, New Regco for the IDA.

SUMMARY

This Application seeks the approval of the Commissions for the Realignment of the regulatory responsibilities and roles of the IDA and CIPF such that CIPF no longer performs an oversight function in respect of the IDA as currently it is the only self-regulatory organization in Canada for investment dealers. The specific substantive changes contemplated by this Application are:

For the IDA:

- elimination of financial compliance oversight reporting to, and review by, CIPF which will be replaced by direct reporting by the IDA to the Commissions
- elimination of requirement to comply with CIPF minimum standards
- acceptance of CIPF assessments according to CIPF's adopted risk models, subject to certain aggregate limits and regulatory oversight
- right to recommend to CIPF's nominating committee an industry director for CIPF's board of directors (Governors)
- by-law amendments to bind IDA members to CIPF assessments and intervention authority in the event of potential losses being incurred

For CIPF:

- elimination of oversight responsibility with respect to IDA member regulation, except in the event of potential customer losses being incurred
- elimination of IDA member field examinations
- elimination of authority to set minimum standards
- primary functions to be risk management, administration of member insolvencies and payment of customer losses
- ability to determine assessments (risk differential assessments were recently adopted with notice to the Commissions) according to risk models adopted by CIPF, subject to certain aggregate limits and regulatory oversight
- reduction of size of board of directors from 12 to 8-10 to reflect its revised responsibilities

The foregoing substantive changes (and several lesser, incidental changes) in respect of each of the IDA and CIPF are proposed to be effected by or reflected in the draft documents filed in support of this Application. No other substantive changes are intended or expected as a result of the Realignment and, in particular, there will be no change to CIPF customer protection coverage.

DOCUMENTS FILED IN SUPPORT OF APPLICATION

The following documents are or have previously been filed with this Application in support of the orders/approvals sought:

- (a) draft revised Industry Agreement between CIPF and the IDA to replace the current Industry Agreement (including a marked version to identify the changes);
- (b) draft Termination Agreement in respect of the current Industry Agreement for The Toronto Stock Exchange and Bourse de Montréal Inc.;
- (c) draft revised CIPF By-law No. 1 (including a marked version to identify the changes to the current By-law);
- (d) study of the Canadian Securities Industry Regulatory Framework prepared by the IDA and endorsed by its Board at its September 2005 meeting and previously filed with the Commissions in 2005 (the "Regulatory Framework Study");
- (e) for information but not the subject of this Application, the request for approval and submission of the IDA to the Commissions pursuant to the Joint Rule Protocol in respect of draft IDA By-law 41 and draft amendments to IDA By-law 21 and Form 1, all previously filed with the Commissions in October 2006.

A revised CIPF MOU, approval / variation order of the Commissions will be required.

DISCUSSION

Background

The Study of the Canadian Securities Industry Regulatory Framework ("Regulatory Framework Study ") published by the IDA (and previously filed with each of the Commissions) explains comprehensively and with supporting documentation the rationale for the proposed Realignment. Reference should be made to the Regulatory Framework Study for detailed background information in respect of this Application.

The predecessor of CIPF, the National Contingency Fund ("NCF"), was established in 1969 as a compensation fund for the customers of insolvent members of the Toronto, Montreal, Canadian and Vancouver Stock Exchanges as well as of the IDA and other organizations joined over time including The Alberta Stock Exchange. At that time the primary role of the NCF was to compensate customers in the event of member insolvency and also to play a role in the administration of insolvent members on behalf of the securities industry as represented by the stock exchanges and the IDA. Over the years since its establishment in 1969, CIPF developed a regulatory role including the ability to prescribe to its sponsoring institutions minimum standards (relating to capital adequacy, books and records, internal control, insurance, securities segregation, audit and financial reporting and other prudential requirements) as well as an oversight role with respect to the sponsoring institutions. In practice and by

agreement, CIPF was relied on by the Commissions to oversee the sponsoring institutions in respect of their prudential regulation of their respective members.

In 1990, the NCF was substantially reorganized as CIPF as a result of a significant member failure and customer losses that the NCF had been required to pay for. At that time there were multiple sponsoring institutions of CIPF and a perception that there remained serious potential risk of loss to customers unless strong and uniform prudential regulations were in place and enforced. Accordingly, the role of CIPF as an oversight regulatory authority in respect of the prudential regulation of the members of its sponsoring institutions was enhanced at that time. In addition, since 1990 as securities markets have expanded, become more volatile, introduced more complicated and risky products and become subject to global influences, the regulatory oversight role of CIPF and the regulation of member firms in accordance with minimum standards has also been strengthened from time to time. It is to be noted that the arrangements as between CIPF and the sponsoring institutions over which it has had oversight responsibility has been primarily a co-operative exercise in that CIPF and representatives of the sponsoring institutions such as the IDA and their members work closely by committee and otherwise in reviewing market developments and existing rules, and developing new rules.

The IDA was one of the original sponsoring institutions of the NCF and, along with the other stock exchanges, participated in the regulation of investment and securities dealers who were members of sponsoring institutions in a manner co-ordinated in part by the Commissions and in part through the oversight of CIPF. However, in recent years at least two important changes have occurred. First, the IDA has developed into a sophisticated member self-regulatory organization ("SRO") with strong resources and expertise across Canada. This development occurred for a number of reasons including the occasion of the formal recognition of the IDA in most provinces of Canada under detailed term and conditions as well as through the acknowledgement by the industry itself that enhanced member regulation was required in the public interest. These considerations are reflected in the terms and requirements of the existing IDA Oversight Agreement with the Commissions. The second development relates to the fact that the member regulation function in the Canadian securities industry has been consolidated since the late 1990s to the point where the IDA is the only self-regulatory organization for investment and securities dealers. The fact that there are no longer multiple self-regulatory organizations reduces the need for at least one of CIPF's current functions, being the co-ordination of regulatory requirements through uniform minimum standards applicable to all SROs and stock exchanges.

In addition to the developments relating to both the IDA and CIPF described above with respect to the regulation of the Canadian securities industry, there has been general recognition in most industrialized countries around the world that more rigorous and effective regulation in the financial services industry at large has been required. The result has been the enactment of laws and regulations representing materially tougher and more onerous obligations on participants in the financial services industry including Canadian investment and securities dealers who are members of the IDA. While appropriate protections to the public and all participants in capital markets can be justified, there is a concurrent obligation to ensure that the regulatory system is as efficient as possible and unnecessary costs, duplication and anachronisms should be eliminated. The IDA and CIPF have both agreed that the proposed Realignment that is the subject of this Application will enhance the efficiency and effectiveness of the regulation of Canadian investment and securities dealers in part by eliminating identified duplication of function, cost burden and anachronisms.

The growing complexity and globalization of financial markets and the financial services industry in Canada and elsewhere in the world has also emphasized the need for regulatory specialization and sophistication. Under the proposed Realignment of the IDA and CIPF, the IDA would focus on its core function of member regulation and CIPF would focus on risk management and the administration of member insolvencies if and when they occur. Both of these specialized functions would be subject to the oversight of the Commissions as at present with the exception that CIPF would no longer have an oversight regulatory role with respect to the IDA.

Principal Amended Documents

The proposed Realignment described in this Application is to be effected by amendments to the principal documents governing the respective roles of CIPF and the IDA as set out below:

1. **Industry Agreement.** The existing Industry Agreement dated December 14, 2001 which became effective on January 1, 2002 and made between the IDA, The Toronto Stock Exchange (the "TSE"), Canadian Venture Exchange Inc. ("CDNX"), Bourse de Montréal Inc. ("Bourse") and CIPF will be amended in the form previously filed with the Commissions. The only continuing parties to the Industry Agreement will be the IDA and CIPF. The TSE, CDNX and Bourse have agreed to cease to be parties or to have rights under the Industry Agreement. As the only current SRO, the IDA will be entitled to recommend to the CIPF Governance and Nominating Committee a director but the appointment shall be determined by CIPF. The basis on which CIPF assessments will be made is clarified including the key principle that the directors of CIPF will adopt a formula or methodology which may reflect risks relating to various classes or groups of members and calculated in any manner that the directors consider relevant in addressing the identified risks. The responsibility for levying the assessments and collecting them would all be with the IDA (or any future SRO that may become a party to the Agreement). It is specifically acknowledged that the IDA's current adopted risk model will be made available to CIPF and no change will be made in such risk model without first providing CIPF

not less than 120 days notice. The ability of CIPF to establish minimum standards will be eliminated in recognition that the IDA will enact its own rules relating to the business and financial strength of its members in order to minimize the risk of insolvency. The Industry Agreement will provide that no changes will be made to such rules without appropriate notice to CIPF and the opportunity of CIPF to comment on such changes. CIPF also has the right when it considers necessary to advise an SRO as to any new rules or amendments that may be appropriate to be considered in the view of CIPF. The IDA will have a contractual obligation to CIPF to enforce the adopted rules against its members. It will remain an obligation of the IDA to provide prompt notice to CIPF of any circumstance where loss may be incurred (defined as a Reportable Condition). The reporting requirements as between the IDA and CIPF have been clarified. In addition to the right to reports, CIPF may review the business and operations of a member where a situation has occurred which may constitute a Reportable Condition. The IDA and CIPF will co-operate in such circumstances. As part of general co-operation between the IDA and CIPF, the Industry Agreement provides that representatives of the respective boards of both CIPF and the IDA shall meet at least once a year to report on and discuss such matters as are of current interest or concern. In addition, a dispute resolution provision has been included in the Agreement.

As a schedule to the Industry Agreement, it is proposed that an information sharing agreement be entered into that will provide for the specific rights and obligations of the parties with respect to shared information including privacy concerns.

2. **CIPF MOU.** Approval is sought for the amendment and restatement of the CIPF MOU. Apart from certain updating to reflect changes in CIPF's governance and constitution, the substantive changes proposed for the CIPF MOU are amendments to CIPF's quarterly reporting obligations to the Commissions, the elimination of the requirement to maintain minimum standards, the elimination of member examination and other oversight obligations and the elimination of current automatic reporting and reporting with respect to routine member regulation matters.
3. **CIPF By-laws.** As a result of the realigned role of the IDA with respect to CIPF, as well as a concurrent corporate governance review conducted by CIPF, certain amendments are proposed with respect to CIPF's By-laws relating to the internal governance of CIPF and its administration. Incidental aspects of the Realignment such as the reduction in the size of the CIPF board will be implemented in any event.

SUBMISSIONS

The IDA and CIPF have carefully considered the proposed Realignment of their respective regulatory responsibilities and roles and have negotiated the terms reflected in the documentation submitted in support of this Application including the revised Industry Agreement, CIPF By-law and CIPF MOU. In addition, the respective boards of directors/governors of both the IDA and CIPF have considered and approved the proposed amendments as being in the public interest and consistent with the regulatory roles and responsibilities of the respective organizations. As explained in the section above Discussion, Background, the Canadian and worldwide financial services industry has evolved rapidly in the past decade and more and the proposed changes are designed to enhance the efficiency and effectiveness of member regulation by the IDA and customer protection by CIPF, both under the oversight of the Commissions. Therefore, it is submitted that the orders and approvals requested by this Application be granted as being in the public interest.

The foregoing is respectfully submitted jointly by the IDA and CIPF and we will be pleased to discuss any aspects of this Application with the Commissions and their staff and provide additional information requested. Any such questions or requests may be directed to Louis Piergeti, Vice-President, Financial Compliance (416 865-3026) at the IDA and/or Rozanne Reszel, President and Chief Executive Officer (416 643-7105) at CIPF and you are further authorized to discuss any aspects of this Application with Bob Hutchison at Borden Ladner Gervais LLP (416 367 6212).

Yours very truly,

**INVESTMENT DEALERS ASSOCIATION
OF CANADA**

**CANADIAN INVESTOR PROTECTION
FUND**

Per: "S. Wolburgh Jenah"
Susan Wolburgh Jenah
President and Chief Executive Officer

Per: "R. Reszel"
Rozanne Reszel
President and Chief Executive Officer

cc: Barbara Fydell, Ontario Securities Commission

SCHEDULE A

Province or Territory	Legislative Reference
Alberta	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 64(1) <i>Securities Act</i> (recognition of SROs) • s. 64(6) <i>Securities Act</i> (power to make decision respecting procedures of an SRO) <p>Power to vary decisions:</p> <ul style="list-style-type: none"> • s. 64(3)(b) <i>Securities Act</i> (power to vary terms or conditions respecting an SRO) • s. 214(1) <i>Securities Act</i> (general power to revoke or vary decisions)
British Columbia	<p>Approved Contingency Fund</p> <ul style="list-style-type: none"> • s. 23(1) of the Securities Rules <p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 24(a) <i>Securities Act</i> (recognition of SROs) • s. 27(1)(b) <i>Securities Act</i> (power to make decision respecting procedures of an SRO) <p>Power to vary decisions:</p> <ul style="list-style-type: none"> • s. 171 <i>Securities Act</i>
Manitoba	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 31.1(1) <i>The Securities Act</i> (recognition of SROs) • s. 31.1(4) <i>The Securities Act</i> (power to make decision respecting procedures of an SRO) <p>Power to vary decisions</p> <ul style="list-style-type: none"> • s. 30(7) <i>The Securities Act</i> (power to make new order on material change in circumstances)
New Brunswick	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 35(1)(b) <i>Securities Act</i> (recognition of SROs) • s. 39(e) <i>Securities Act</i> (power to make decisions respecting procedures of an SRO) <p>Power to vary decisions</p> <ul style="list-style-type: none"> • s. 206(1) <i>Securities Act</i>
Newfoundland and Labrador	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 25(1) <i>Securities Act</i> (recognition of SROs) • s. 25(4) (power to make decisions respecting procedures of an SRO)
Northwest Territories	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 43.1 <i>Securities Act</i> (exemption order)
Nova Scotia	<p>Approved Contingency Fund</p> <ul style="list-style-type: none"> • s. 27 of the Securities Regulations <p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 30(1) <i>Securities Act</i> (recognition of SROs) • s. 151A(1)(a) <i>Securities Act</i> (power to exempt categories of persons) <p>Power to vary decisions</p> <ul style="list-style-type: none"> • s. 151 <i>Securities Act</i> (power to vary decisions)

<p>Nunavut Territory</p>	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 43.1 <i>Securities Act</i> (exemption order) <p>Approval of Contingency Fund</p> <ul style="list-style-type: none"> • s. 110 of Regulation 1015
<p>Ontario</p>	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 21.1(1) <i>Securities Act</i> (recognition of SROs) • s. 21.1(4) <i>Securities Act</i> (power to make decisions respecting procedures of an SRO) <p>Power to vary decisions</p> <ul style="list-style-type: none"> • s. 21.7(1) <i>Securities Act</i> (power to vary decisions respecting an SRO) • s. 144(1) <i>Securities Act</i> (power to vary decisions)
<p>Prince Edward Island</p>	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 40(1)(b) <i>Securities Act</i> (power to exempt categories of persons) <p>Power to vary decisions</p> <ul style="list-style-type: none"> • s. 31 <i>Securities Act</i> (power to vary decisions)
<p>Québec</p>	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 170 <i>Securities Act</i>
<p>Saskatchewan</p>	<p>Approved Contingency Fund</p> <ul style="list-style-type: none"> • s. 23(1)(a) of the Securities Regulation <p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 21(2) <i>Securities Act, 1988</i> <p>Power to vary decisions</p> <ul style="list-style-type: none"> • s. 158(3) <i>Securities Act, 1988</i> (power of Commission to vary decisions of Commission)
<p>Yukon Territory</p>	<p>Application procedure</p> <ul style="list-style-type: none"> • s. 37 <i>Securities Act</i>

Canadian Investor Protection Fund/
Fonds Canadian de Protection des Épargnants

BY-LAW NUMBER 1

BE IT ENACTED as a by-law of Canadian Investor Protection Fund/Fonds Canadien de protection des épargnants which was incorporated under the *Canada Corporations Act* (the "Act") or a predecessor thereof, as follows:

PART 1 – DEFINITIONS

1.1 In this By-law, the following words and terms shall have the meanings set out below:

"Associate", where used to indicate a relationship with any person, means:

- (a) any corporation of which such person beneficially owns, directly or indirectly, voting securities carrying more than ten percent (10%) of the voting rights attached to all voting securities of the corporation for the time being outstanding;
- (b) a partner of that person;
- (c) any trust or estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity;
- (d) any relative of that person who resides in the same home as that person;
- (e) any person who resides in the same home as the person and to whom that person is married or with whom that person is living in a conjugal relationship outside of marriage; or
- (f) any relative of a person mentioned in clause (e) above, who has the same home as that person.

"Board" means the board of directors of the Corporation;

"Corporation" means the Canadian Investor Protection Fund/Fonds Canadien de protection des épargnants incorporated under the Act;

"directors" means the persons comprising the Board;

"Governance and Nominating Committee" means the committee established pursuant to Part 5 of this By-law;

"Industry Director" means a director elected (or appointed to fill a vacancy) and holding office pursuant to Section 4.2 of this By-law and who:

- (a) is not a Public Director or the President and Chief Executive Officer, and
- (b) is either
 - (i) actively engaged in the securities industry as a partner, director, officer or employee or person acting in a similar capacity of an SRO Member or of an affiliate or associated corporation of an SRO Member; or
 - (ii) familiar with most aspects of the securities industry;

"Members" means the members of the Corporation;

"Public Director" means a director elected or appointed and holding office pursuant to Section 4.2.2 of this By-law and who is not:

- (a) a current officer (other than the Chair or the Vice Chair) or employee of the Corporation;
- (b) a current director, officer, employee or person acting in a similar capacity of an SRO;
- (c) a person who qualifies as an Industry Director pursuant to subparagraph (b)(i) of the definition of an Industry Director; or

- (d) an Associate of a person described in subparagraph (a), (b) or (c) or of an SRO member.

For all purposes of this by-law, a Public Director as at the date this definition of Public Director becomes effective and who does not qualify as a Public Director under such definition shall be deemed to qualify as a Public Director and to continue so qualified as long as and until he or she ceases to be qualified as a Public Director according to the definition of that term in force immediately before the date this definition becomes effective.

"SRO" means a self-regulatory organization which the directors have approved as an SRO which regulates its SRO Members in accordance with the standards and such other terms and conditions as may be agreed between the Corporation and such SRO;

"SRO Member" means a securities dealer, broker or other firm which is a member, approved participant or similar participating organization of an SRO, provided that the directors may exclude any person or class of persons from this definition of SRO Member.

PART 2 – CONDITIONS OF MEMBERSHIP

- 2.1 **Membership.** Membership in the Corporation shall consist only of the persons who compose the Board from time to time. Subject to the terms of this By-Law and the Act, each Member shall have equal voting rights.
- 2.2 **Termination of Membership.** The membership of a Member shall terminate upon his or her resignation or removal from, or otherwise ceasing to hold, office as a director of the Corporation.

PART 3 – HEAD OFFICE

- 3.1 **Head Office.** Until changed in accordance with the Act, the head office of the Corporation shall be in the City of Toronto in the Province of Ontario.

PART 4 – BOARD OF DIRECTORS

- 4.1 **Composition of Board.** The property and business of the Corporation shall be managed by a Board consisting of not fewer than 8 or more than 12 directors and composed of an equal number of Industry Directors and Public Directors together with the Chair and the President and Chief Executive Officer of the Corporation. The number of directors shall be determined from time to time by a resolution passed at a meeting of the Members of the Corporation. Directors must be individuals who are at least 18 years of age with power under law to contract. The nomination and election of directors shall be made bearing in mind the desirability of appropriate and timely regional representation and, in the case of Industry Directors, experience with the various aspects of the nature of the business carried on by SRO Members.
- 4.2 **Election and Term.**
- 4.2.1 **Industry Directors.** Industry Directors shall be nominated by the Governance and Nominating Committee for election by the Members at an annual meeting of Members, provided that: (i) each Industry Director shall satisfy the criteria in the definition of "Industry Director"; (ii) one Industry Director shall have been recommended by each SRO for nomination by the Governance and Nominating Committee; and (iii) a majority of the Industry Directors satisfy the criteria in subparagraph (b)(i) of the definition of "Industry Director". An Industry Director shall hold office for a term of 3 years and shall be eligible for re-appointment for one additional 3-year term. Notwithstanding the foregoing, Industry Directors may be appointed or elected for a term of less than 3 years in order to accommodate staggered terms of office among all Industry Directors.
- 4.2.2 **Public Directors.** Public Directors shall be nominated by the Governance and Nominating Committee for election by the Members at an annual meeting of Members and shall hold office for a term of 3 years and be eligible for re-appointment for one additional 3-year term. Notwithstanding the foregoing, Public Directors may be elected for a term of less than 3 years in order to accommodate staggered terms of office among all Public Directors.
- 4.3 **Chair and Vice-Chair of the Board.** The Chair of the Board shall be nominated by the Governance and Nominating Committee for appointment by the Board from time to time. The person nominated as Chair may be a person who qualifies as either an Industry Director or a Public Director. The term of office of the Chair shall be as determined by the Board provided that the Chair shall not serve for a term longer than 4 consecutive years (calculated without reference to any terms served as a director). The Governance and Nominating Committee may also nominate from time to time one of the directors then in office for appointment by the Board as the Vice-Chair of the Board. The term of office of the Vice-Chair shall be as determined by the Board and the Vice-Chair shall be eligible to be appointed for a further term or terms, provided that the term of office of a Vice-Chair shall cease if he or she ceases to be a director.

4.4 **President and Chief Executive Officer.** The Board shall appoint a President of the Corporation who shall serve the Corporation on a full-time basis and who shall not, directly or indirectly, while so serving the Corporation, be engaged in the employ of or be an officer, director, shareholder or partner, as the case may be, of an SRO or of an SRO Member.

4.5 **Vacancies.** The office of director shall be automatically vacated:

- (a) if the director shall resign such office by delivering a written resignation to the secretary of the Corporation;
- (b) if the director is found by a court to be of unsound mind;
- (c) if the director becomes bankrupt;
- (d) if, at a meeting of the Board, the directors are of the opinion that due cause exists, including the fact that the director, without reasonable grounds, has not attended a sufficient number of Board meetings;
- (e) if the director becomes ineligible to be a director subsequent to his or her appointment;
- (f) on death;

provided that if any vacancy shall occur for any reason contained in this Section, and if a quorum of directors remains in office, the Board, by majority vote, may, by appointment, and on recommendation by the Governance and Nominating Committee, fill the vacancy with a qualified person who will serve until the next annual meeting of Members, except that if an Industry Director recommended by an SRO vacates or is deemed to have vacated his or her office for any of the reasons set out above, the SRO which recommended him or her shall be entitled to recommend to the Governance and Nominating Committee a replacement within 7 days of the date on which the office of such director is vacated.

4.6 **Retiring director.** Unless the office of a director has been automatically vacated pursuant to Section 4.5, a director shall remain in office until the dissolution or adjournment of the meeting at which a successor is elected or appointed.

4.7 **Place of Meeting, Notice, Voting and Quorum.** Meetings of the Board will be held in Toronto unless otherwise determined by the Board and may be held at any time to be determined by the directors provided that 24 hours' written notice of such meeting shall be given, other than by mail, to each director. Notice by mail shall be sent at least 14 days prior to the meeting. There shall be at least 1 meeting per calendar year of the Board. No error or omission in giving notice of any meeting of the Board or any adjourned meeting of the Board shall invalidate such meeting or make void any proceedings taken thereat and any director may at any time waive notice of such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. Each director is authorized to exercise 1 vote. A quorum for the transaction of all business of the Board shall be a majority of the directors provided that at least two Industry Directors and two Public Directors are present, together with one of either the Chair or the President. A quorum may be comprised in whole or in part of directors attending a meeting of the directors by means of teleconference or by other electronic means in accordance with Section 4.8. Notwithstanding anything contained herein, any director may, if in the opinion of the Chair, Vice-Chair or President the financial condition of an SRO Member is such that immediate action by the directors may be required, call a meeting of directors to consider the action to be taken by giving three hours' prior notice of such meeting by teleconference or other electronic means to each director, but no such notice shall be required where all of the directors are in attendance personally or by teleconference or other electronic means, as the case may be, in the manner referred to in Section 4.8 at a meeting so called.

4.8 **Meetings by Teleconference.** Directors may hold meetings by teleconference or by other electronic means that permit all persons participating in the meeting to hear each other.

4.8.1 If all of the directors of the Corporation consent thereto generally or in respect of a particular meeting, a director may participate in a meeting of the Board or of a committee of the Board by means of such conference telephone or other electronic communications facilities to which all directors have equal access and which permit all persons participating in the meeting to hear and communicate with each other. A director participating in a meeting by such means is deemed to be present at the meeting.

4.8.2 At the commencement of each such meeting, the secretary of the meeting will record the names of those persons in attendance in person or by electronic communications facilities and the chair of the meeting will determine whether a quorum is present. The chair of each such meeting shall determine the method of recording votes thereat, provided that any director present may require all persons present to declare their votes individually. The directors shall take such reasonable precautions as may be necessary to ensure that any electronic communications facilities used are secure from unauthorized interception or monitoring.

- 4.9 **Resolutions and Conduct of Meetings.** Resolutions will be passed by a majority of the directors present and voting on the resolution by a verbal vote recorded by the secretary, unless the Act or these by-laws otherwise provide. If permitted by law, a resolution in writing signed by all of the directors entitled to vote on that resolution at a meeting of directors or committee of directors is as valid as if it had been passed at a meeting of directors or committee of directors. In the absence of the Chair or the Vice-Chair at any meeting of directors, the chair of the meeting shall be selected by the directors present. The directors may make such other regulations governing their meetings, proceedings and any other administrative matters as they consider necessary or desirable.
- 4.10 **Remuneration of Directors.** The directors shall be entitled to receive such remuneration as the Board may determine from time to time; and a director may be paid reasonable expenses incurred by the director in the performance of his or her duties.
- 4.11 **Agents, Employees and Advisors.** The Board may appoint such agents, employees and advisors as it shall deem necessary from time to time and such persons shall have such authority and shall perform such duties as shall be prescribed by the Board at the time of such appointment.
- 4.12 **Remuneration of Officers, Agents, Employees and Committee Members.** A reasonable remuneration of all officers, agents and employees and committee members may be fixed by the Board or committee authorized by the Board.
- 4.13 **Committees.** The directors may in their sole discretion at any time and from time to time appoint from among their number committees consisting of one or more directors and may delegate to such committees any authority of the directors.

PART 5 – GOVERNANCE AND NOMINATING COMMITTEE

- 5.1 **Governance and Nominating Committee.** The Board shall appoint a Governance and Nominating Committee which shall be composed of such number of directors and carry out such duties and tasks as set out in the By-laws or as determined by the Board from time to time.

PART 6 – INTEREST OF DIRECTORS IN CONTRACT

- 6.1 (a) **Conflict of Interest.** Any director of the Corporation who:
- (i) is a party to a material contract or proposed material contract with the Corporation; or
 - (ii) is a director or officer of or has a material interest in any body corporate or business firm, whether direct or indirect, who is a party to a material contract or proposed material contract with the Corporation,
- shall disclose in writing, or have entered in the minutes, the nature and extent of such director's interest in such material contract or proposed material contract with the Corporation.
- (b) The disclosure required by (a) above, shall be made:
- (i) at the meeting at which a proposed contract is first considered;
 - (ii) if the director was not then interested in a proposed contract, at the first meeting after such director becomes so interested; or
 - (iii) if the director becomes interested after a contract is made, at the first meeting held after the director becomes so interested.
- (c) If a contract or a proposed contract is one that, in the ordinary course of carrying on the Corporation's purposes, would not require approval by the directors or Members, a director shall disclose in writing the nature and extent of the director's interest at the first meeting held after the director becomes aware of the contract or proposed contract.
- (d) A director referred to in sub-section (a) above is liable to account for any profit made on the contract by the director or by a corporate entity or business firm in which the director has a material interest, unless
- (i) the director disclosed the director's interest in accordance with sub-sections (b) or (c) above or (f) below;

- (ii) after such disclosure the contract was approved by the directors or Members; and
- (iii) the contract was reasonable and fair to the Corporation at the time it was approved.

Provided that a director who has made a declaration of the director's interest in a contract or a proposed contract and has not voted in respect of such contract contrary to the prohibition contained in sub-sections (e) below, if such prohibition applies, is not accountable to the Corporation or any of its Members or creditors by reason only of such director holding that office or of the fiduciary relationship thereby established, for any profit realized by such contract.

- (e) A director referred to in sub-sections (a) above shall not vote on any resolution to approve the contract, unless the contract is an arrangement by way of security for money lent to or obligations undertaken by the director for the benefit of the Corporation.
- (f) For the purposes of this Section 6.1, a general notice to the directors by a director declaring that the person is a director or officer of or has a material interest in a body corporate or business firm and is to be regarded as interested in any contract made therewith, is a sufficient declaration of interest in relation to any contract so made.
- (g) A contract is not void by reason only of the failure of a director to comply with the provisions of this Section 6.1 but a court may upon the application of the Corporation or a Member, set aside a contract in respect of which a director has failed to comply with the provisions of this Section 6.1, and the court may make any further order it thinks fit.

PART 7 – PROTECTION OF OFFICERS AND DIRECTORS

7.1 **Limitation of Liability.** No past or present member of the Board or any committee or sub-committee thereof or of the Corporation, nor any past or present officer, employee or agent of any of them, shall be liable for the acts, receipts, neglects or defaults of any other of such persons, or for joining in any receipt or other act for conformity, or for any loss, damage or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired for or on behalf of the Corporation, or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Corporation shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious acts of any person with whom any of the moneys, securities or effects of the Corporation shall be deposited, or for any loss occasioned by any error of judgment or oversight on his or her part, or for any other loss, damage or misfortune whatever which shall happen in the execution of the duties of his or her office or in relation thereto; provided that nothing herein shall relieve any such person from the duty to act in accordance with the Act and the regulations thereunder or from liability for any breach thereof.

7.2 **Indemnity.** Each past and present member of the Board or any committee or sub-committee thereof or of the Corporation, and each past and present officer, employee or agent of the Corporation, and any other person who has undertaken or is about to undertake any liability on behalf of the Corporation or any company controlled by it, and their heirs, executors and administrators, and estate and effects, respectively, shall from time to time and at all times, be indemnified and saved harmless out of the funds of the Corporation, from and against:

- (a) all costs, charges, fines and penalties and expenses which such Board, committee or sub-committee member, officer, employee, agent or other person sustains or incurs in or about or to settle any action, suit or proceeding which is threatened, brought, commenced or prosecuted against him or her, or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by him or her, in or about the execution of the duties of his or her office or in respect of any such liability; and
- (b) all other costs, charges and expenses which he or she sustains or incurs in or about or in relation to the affairs thereof, including an amount representing the value of time any such Board, committee or sub-committee member, officer employee, agent or other person spent in relation thereto and any income or other taxes or assessments incurred in respect of the indemnification provided for in this By-law, except such costs, charges or expenses as are occasioned by his or her own wilful neglect or default.

The Corporation shall also indemnify such persons in such other circumstances as the Act permits or requires. Nothing in this By-law shall limit the right of any person entitled to indemnity apart from the provisions of this By-law.

7.3 **Action, Suit or Proceeding Threatened, Brought, etc. by the Corporation.** Where the action, suit or proceeding referred to in Section 7.2(a) above is threatened, brought, commenced or prosecuted by the Corporation against a Board, committee or sub-committee member, officer, employee, agent or other person who has undertaken or is about to undertake any liability on behalf of the Corporation or any company controlled by it, the Corporation shall make

application at its expense for approval of the court to indemnify such persons, and their heirs, executors and administrators, and estates and effects respectively, on the same terms as outlined in Section 7.2.

PART 8 – INSURANCE

- 8.1 **Insurance.** The Corporation may purchase and maintain insurance for the benefit of any person referred to in Section 7.2 against such liabilities and in such amounts as the Board may from time to time determine and are permitted by the Act.

PART 9 – POWERS OF DIRECTORS

- 9.1 **Powers.** The directors of the Corporation may administer the affairs of the Corporation in all things and make or cause to be made for the Corporation, in its name, any kind of contract which the Corporation may lawfully enter into and, save as hereinafter provided, generally, may exercise all such other powers and do all such other acts and things as the Corporation is by its charter or otherwise authorized to exercise and do.
- 9.2 **Audit Committee.** The Board shall appoint an audit committee composed of 3 or more directors. The audit committee shall be responsible for the review and approval of the Corporation's financial statements and such other functions as the Board may determine.
- 9.3 **Expenditures.** The directors shall have power to authorize expenditures on behalf of the Corporation from time to time and may delegate by resolution to an officer or officers of the Corporation the right to employ and pay salaries to employees on behalf of the Corporation.
- 9.4 **Funding.** The Board shall take such steps as they may deem requisite to enable the Corporation to acquire, accept, solicit or receive contributions, assessments, fines, levies, legacies, gifts, grants, settlements, bequests, endowments and donations of any kind whatsoever for the purpose of furthering the objects of the Corporation.

PART 10 – OFFICERS

- 10.1 **Appointment.** The officers of the Corporation, which shall include the offices of president, vice-president, secretary and chief financial officer and any such other officers as the Board may determine by by-law, shall be appointed by resolution of the Board at the first meeting of the Board following the annual meeting of Members in which the directors are elected. A person may hold more than one office. Each director, by reason of being such, shall be regarded an officer of the Corporation in addition to any other officers who may from time to time be appointed by the Board.
- 10.2 **Term and Removal of Officers.** The officers of the Corporation, other than those who are officers solely by reason of being members of the Board, shall hold office for such terms as the Board may determine or until their successors are elected or appointed in their stead and shall be subject to removal by resolution of the Board at any time.

PART 11 – DUTIES OF OFFICERS

- 11.1 **Chair.** The Chair shall be appointed pursuant to Section 4.3 and shall preside at all motions of Members and of the Board and shall oversee the general management of the affairs of the Corporation.
- 11.2 **Vice-Chair.** The Vice-Chair shall be appointed pursuant to Section 4.3 and in the absence of the Chair shall preside at meetings of the Members and of the Board and shall have such other duties as may be determined by the Board.
- 11.3 **President.** The President shall be the chief executive officer of the Corporation whose responsibilities, duties, remuneration, terms and duration of employment shall be determined from time to time by the Board. The President may engage as employees of the Corporation such number of persons as the Board in its discretion deems necessary to assist the President in the performance of his or her duties.
- 11.4 **Vice-President.** The Vice-President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President and shall perform such other duties as shall from time to time be imposed upon the Vice-President by the Board.
- 11.5 **Chief Financial Officer.** The Chief Financial Officer shall be responsible for the financial administration and controls of the Corporation and shall perform such other duties as shall from time to time be imposed by the Board.
- 11.6 **Secretary.** The secretary may be empowered by the Board, upon resolution of the Board, to carry on the affairs of the Corporation generally under the supervision of the officers thereof and shall attend all meetings and act as clerk thereof and record all votes and minutes of all proceedings in the books to be kept for that purpose. The secretary shall give or

cause to be given notice of all meetings of the Members and of the Board and shall perform such other duties as may be prescribed by the Board or by the president, under whose supervision the secretary shall be. The secretary shall be custodian of the seal of the Corporation, which the secretary shall deliver only when authorized by a resolution of the Board to do so and to such person or persons as may be named in the resolution.

- 11.7 **Duties of Officers.** The duties of all other officers of the Corporation shall be such as the terms of their engagement call for or as the Board requires of them.

PART 12 – EXECUTION OF DOCUMENTS

- 12.1 **Execution of Documents.** Contracts, documents or any instruments in writing requiring the signature of the Corporation shall be signed by any two of the Chair, a Vice-Chair, the President, a Vice-President or director, or a combination thereof, provided that any such contract, document or instrument that commits the Corporation to an expenditure or liability in excess of \$25,000 and does not relate to a matter that has been approved as part of an annual budget by the Board shall be required to be signed by a director other than the President, together with any person authorized according to the foregoing. All contracts, documents and instruments in writing so signed shall be binding upon the Corporation without any further authorization or formality. The directors shall have power from time to time by resolution to appoint persons on behalf of the Corporation to sign specific contracts, documents and instruments in writing. The directors may give the Corporation's power of attorney to any registered dealer in securities for the purposes of the transferring of and dealing with any stocks, bonds, and other securities of the Corporation. The seal of the Corporation when required may be affixed to contracts, documents and instruments in writing signed as aforesaid or by persons appointed by resolution of the Board.

PART 13 – MEMBERS' MEETINGS

- 13.1 **Time and Place of Meetings.** Meetings of the Members shall be held at least once a year or more often if necessary at the head office of the Corporation or at any place in Canada as the Board may determine and on such day as the Board shall appoint. The Board may resolve that a particular meeting of Members be held outside Canada.
- 13.2 **Annual Meetings.** At every annual meeting, in addition to any other business that may be transacted, the report of the directors, the financial statement and the report of the auditors shall be presented and auditors appointed for the ensuing year. The Members may consider and transact any business either special or general at any meeting of the Members. The Board, the Chair or the President shall have power to call, at any time, a general meeting of the Members. The Board shall call a special general meeting of Members on written requisition of those Members who carry not less than 20% of the voting rights. A majority of the Members entitled to vote will constitute a quorum at any meeting of Members. Such majority shall be either present in person or represented by proxy at such meeting.
- 13.3 **Written Resolutions.** A resolution in writing, signed by all the Members entitled to vote on that resolution at a meeting of Members, is as valid as if it had been passed at a meeting of Members, provided that the matter dealt with by the resolution in writing is one which is not required by the Act to be dealt with at a meeting of Members.
- 13.4 **Means of Meetings.** Members may hold meetings by teleconference or by other electronic means that permit all persons participating in the meeting to hear each other and communicate adequately. If all the Members of the Corporation consent thereto generally or in respect of a particular meeting, a Member may participate in a meeting of the Members by means of such conference telephone or other electronic communications to which all Members have equal access and such as permit all persons participating in the meeting to hear and communicate with each other, and a Member participating in such a meeting by such means is deemed to be present at the meeting. At the commencement of each such meeting the secretary of the meeting will record the names of those persons in attendance in person or by electronic communications facilities and the Chair will determine whether a quorum is present. The Chair of each such meeting shall determine the method of recording votes thereat, provided that any Member present may require all persons present to declare their votes individually. The Chair of such meetings shall be satisfied that Members have taken such reasonable precautions as may be necessary to ensure that any electronic communications facilities used are secure from unauthorized interception or monitoring.
- 13.5 **Resolutions.** Resolutions will be passed by a majority of the Members entitled to vote by a verbal vote recorded by the secretary, unless the Act or these by-laws otherwise provide.
- 13.6 **Notice.** Fourteen days' written notice shall be given to each voting Member of any meeting of Members. Notice of any meeting where special business will be transacted should contain sufficient information to permit the Member to form a reasoned judgment on the decision to be taken. Notice of each meeting of Members must state that the Member has the right to vote by proxy.

- 13.7 **Voting of Members and Proxies.** Each Member entitled to vote and who is present at a meeting shall have the right to exercise one vote. A Member may, by means of a written proxy, appoint a proxyholder to attend and act at a specific meeting of Members, in the manner and to the extent authorized by the proxy. A proxyholder need not be a Member of the Corporation.
- 13.8 **Errors or Omissions in Giving Notice.** No error or omission in giving notice of any meeting or any adjourned meeting, whether annual or general, of the Members shall invalidate such meeting or make void any proceedings taken thereat and any Member may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. For purpose of sending notice to any Member or officer for any meeting or otherwise, the address of the Member or officer shall be that person's last address recorded on the books of the Corporation.

PART 14 – POLICIES AND AGREEMENTS

- 14.1 **Policies.** The Board may exercise any of its powers and authority in accordance with policies, guidelines or other instruments adopted by it from time to time, and as repealed and amended in its discretion, including, without limitation, in respect of:
- (a) the principles and criteria for payments by the Corporation to customers of insolvent SRO Members;
 - (b) definitions of customers who are eligible for payments referred to in (a);
 - (c) the rights or obligations of SRO Members to hold out the availability of coverage by the Corporation and the use of advertising materials in that regard; and
 - (d) the persons or classes of persons to be excluded from the definition of SRO Member in Section 1.9.
- 14.2 **Agreements.** The Corporation may enter into in its own name agreements or arrangements with any securities commission or regulatory authority, law enforcement agency, self-regulatory organization, stock exchange or other trading market, customer or investor protection or compensation fund or plan or other organization regulating or providing services in connection with securities trading located in Canada or any other country for the exchange of any information (including information obtained by the Corporation pursuant to its authority or otherwise in its possession) and for other forms of mutual assistance for market surveillance, investigation, enforcement and other regulatory purposes relating to trading in securities in Canada or elsewhere.
- 14.3 **Assistance.** The Corporation may provide to any securities commission or regulatory authority, law enforcement agency, self-regulatory organization, stock exchange, other trading market, customer or investor protection or compensation fund or plan or other organization regulating or providing services in connection with securities trading located in Canada or any other country any information obtained by the Corporation pursuant to the By-laws or rules or otherwise in its possession and may provide other forms of assistance for surveillance, investigation, enforcement and other regulatory purposes.

PART 15 – FINANCIAL YEAR

- 15.1 **Financial Year.** The fiscal year-end of the Corporation shall be the last day of the month determined by the Board, in each year.

PART 16 – AMENDMENT OF BY-LAWS

- 16.1 **Amendment of By-laws.** The provisions of the by-laws of the Corporation not embodied in the letters patent may be repealed or amended by by-law enacted by 2/3 of the directors at a meeting of the Board and sanctioned by at least 2/3 of the Members entitled to vote and participating at a meeting duly called for the purpose of considering said by-law, provided that the repeal or amendment of such by-laws shall not be enforced or acted upon until the approval of the Minister of Industry Canada has been obtained.

PART 17 – AUDITOR

- 17.1 **Auditor.** The Members shall at each annual meeting appoint an auditor to audit the accounts of the Corporation for report to the Members at the next annual meeting. The auditor shall hold office until the next annual meeting, provided that the directors may fill any casual vacancy in the office of auditor. The remuneration of the auditor shall be fixed by the Board.

PART 18 – BOOKS AND RECORDS

- 18.1 **Books and Records.** The directors shall ensure that all necessary books and records of the Corporation required by the by-laws of the Corporation or by any applicable statute or law are regularly and properly kept.

PART 19 – RULES AND REGULATIONS

- 19.1 **Rules and Regulations.** The Board may prescribe such rules and regulations not inconsistent with these by-laws relating to the management and operation of the Corporation as they deem expedient.

PART 20 – INTERPRETATION

- 20.1 **Interpretation.** In these by-laws and in all other by-laws of the Corporation hereafter passed, unless the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and references to persons shall include firms and corporations.

MEMORANDUM OF UNDERSTANDING

B E T W E E N:

Alberta Securities Commission;
Autorité des marchés financiers (Québec);
British Columbia Securities Commission;
Manitoba Securities Commission;
New Brunswick Securities Commission;
Securities Division, Department of Government Services & Lands (Newfoundland and Labrador);
Office of the Registrar of Securities (Northwest Territories);
Nova Scotia Securities Commission;
Department of Justice, Legal Registries Division (Nunavut);
Ontario Securities Commission;
Department of Community Affairs and Attorney General (Prince Edward Island);
Saskatchewan Financial Services Commission;
Registrar of Securities (Yukon)

(each, a "Regulator")
(collectively, the "Canadian Securities Administrators")

– and –

Canadian Investor Protection Fund,
a corporation incorporated under the laws of Canada

The parties agree as follows:

1. Underlying Principles

1.1 Participation in a Compensation or Contingency Fund

The Canadian Securities Administrators (the "CSA") consist of the authority in each Canadian province and territory that, under statute, regulates the securities industry within its jurisdiction. Each Regulator is responsible for promoting both investor protection and fair and efficient capital markets in its jurisdiction.

Securities laws and regulations in each Canadian province and territory may require registered dealers to participate in a compensation fund or contingency trust fund approved by the Regulator or a contingency fund deemed acceptable by the Regulator (collectively, "compensation or contingency fund") and established by, among others, a self-regulatory organization ("SRO").

Certain Regulators have issued Approvals of or a Deemed Acceptable Decision for the Canadian Investor Protection Fund (the "CIPF") as a compensation or contingency fund.

1.2 The Canadian Investor Protection Fund

The CIPF was established by its sponsoring SROs to protect Customers who have suffered financial loss due to the failure of a Member Firm of any one of the sponsoring SROs. As of the effective date of this Memorandum of Understanding ("MOU"), the Investment Dealers Association of Canada ("IDA") is the CIPF's only sponsoring SRO.

The CIPF will enter into an Industry Agreement with the IDA, or its successor, which contemplates that other SROs may become parties to the agreement.

The CIPF acts, for the purpose of this MOU, as a compensation or contingency fund. It provides protection on a discretionary basis to prescribed limits to eligible Customers of Participating SRO Member Firms suffering losses if Customer property comprising securities, cash and other property held by such Member Firms is unavailable as a result of the insolvency of a Member Firm and, in connection with such coverage, will engage in risk management activities to minimize the likelihood of such losses.

The CIPF is financed by Member Firms through its Participating SROs.

1.3 The Memorandum of Understanding

On July 2, 1991, the CIPF entered into a MOU with twelve of the Regulators (the former Commission des valeurs mobilières du Québec (“CVMQ”) was not a party to that MOU), which MOU was subsequently amended. On June 20, 1997, the CIPF entered into a MOU with the CVMQ, which MOU was subsequently amended.

The CSA and the CIPF wish to amend and restate the MOU entered into on July 2, 1991, as amended, to reflect changes in the nature of the CIPF’s role and responsibilities and to enhance the protection of investors and maintain investor confidence in the Canadian capital markets. The Autorité des marchés financiers (“Autorité”) wishes to rescind the MOU between the CIPF and the CVMQ and to become a party to the amended and restated MOU between the CSA and the CIPF.

The Approvals or Deemed Acceptable Decision issued by certain Regulators regarding the CIPF are subject to the CIPF complying with this MOU.

2. Definitions

“Applicable Regulator” means each Regulator in the jurisdiction in which a Member Firm is registered.

“Approval” means the approval of the CIPF by the Regulators required pursuant to those securities laws and regulations in each Canadian province and territory which may stipulate that registered dealers must participate in a compensation fund or contingency trust fund approved by the Regulator and established by, among others, an SRO.

“Approving Regulator” means a Regulator that has issued an Approval or a Deemed Acceptable Decision regarding the CIPF.

“Coverage Policies” means policies established from time to time by the CIPF’s Board of Directors pursuant to the section of the Approval and Deemed Acceptable Decision regarding Customer Protection.

“Customer” has the meaning ascribed to that term in the Coverage Policies.

“Deemed Acceptable Decision” means the decision made by the Autorité pursuant to Quebec Securities Regulation which stipulates that a dealer with an unrestricted practice or a discount broker must participate in a contingency fund deemed acceptable by the Autorité.

“Fund” means the liquid assets of the CIPF available for protection of Customers of Member Firms.

“Industry Agreement” means an agreement, as amended from time to time, between the CIPF and any Participating SRO regarding the basis on which the CIPF provides protection to Customers of Member Firms.

“Member Firm” means a member or participant of any of the Participating SROs that is a registered dealer in Canada.

“Participating Regulator” means a Regulator, other than the Principal Regulator, that is participating in an oversight review of the CIPF.

“Participating SRO” means an SRO that is a party to or that becomes a party to the Industry Agreement.

“Principal Regulator” means the Regulator that is designated as such from time to time.

“Reportable Condition” means any condition which could give rise to payments being made out of the Fund, including, without limitation, the suspension, expulsion or appointment of a monitor in respect of a Member Firm or similar action by a Participating SRO and any condition which has contributed substantially to or, if appropriate corrective action is not taken, could reasonably be expected to:

- (a) inhibit a Member Firm from promptly completing securities transactions, promptly segregating Customers’ securities as required or promptly discharging its responsibilities to Customers, other Member Firms and other creditors;
- (b) result in material financial loss;
- (c) result in material misstatements of the Member Firm’s financial statements; or

- (d) result in violations of the minimum record requirements of a Participating SRO to an extent that could reasonably be expected to result in the conditions described in parts (a), (b), or (c) above.

3. Approval and Deemed Acceptable Decision

The CIPF will abide by the terms and conditions of any Approval or Deemed Acceptable Decision made by a Regulator.

4. Member Reviews

The CIPF will review, in accordance with the Industry Agreement, the business and operations of any Member Firm, or designated groups of Member Firms, where a situation has occurred that in the opinion of the CIPF constitutes a Reportable Condition.

5. Oversight Program

5.1 Purposes of the Oversight Program

The CSA have developed a program of oversight for the CIPF to ensure that the CIPF is appropriately discharging its responsibilities as a compensation or contingency fund for Customers of Member Firms. The purposes of this oversight program include but are not limited to:

- (i) determining compliance with this MOU and the terms and conditions of any Approvals or Deemed Acceptable Decision made by the Regulators regarding the CIPF;
- (ii) ensuring that the CIPF continues to have the appropriate governance structure to fulfill its obligations;
- (iii) ensuring that the CIPF is appropriately discharging its core functions;
- (iv) ensuring that the CIPF is managing its risks adequately;
- (v) identifying and addressing any deficiencies in the CIPF's functioning as a compensation or contingency fund for Customers of Member Firms and ensuring the effective resolution of these deficiencies; and
- (vi) ensuring that the CIPF has established and maintains transparent, fair and reasonable Coverage Policies.

5.2 Oversight Reviews

As part of this oversight program, the CSA will carry out reviews of the CIPF on a periodic basis.

Staff of the Principal Regulator will solicit interest from staff of the other Regulators with respect to participating in the oversight review. The Regulators that choose to participate will be considered to be Participating Regulators for the purpose of the CIPF oversight review.

Staff of the Principal Regulator will develop the review program in consultation with staff of the Participating Regulators. The Principal Regulator will be responsible for adequate staffing of the review and co-ordinating the review and resulting report with staff of the Participating Regulators.

At the conclusion of a CIPF review, staffs of the Principal Regulator and the Participating Regulators will finalize the review report. In finalizing the review report, staffs of the Principal Regulator and the Participating Regulators will use their best efforts to follow the procedures set out in Schedule A to this MOU, or such other procedures as agreed upon by the Principal Regulator and the Participating Regulators, taking into account language translation needs, where applicable.

5.3 Reporting to the CSA

5.3.1 Reporting Obligations

The CIPF will report to each Regulator in accordance with the provisions of Schedule B to this MOU.

Any comments from the staff of the Regulators on any report, document or information provided by the CIPF will be sent to the Principal Regulator. The Principal Regulator will request that the CIPF respond to comments raised by the Regulators and will forward any response to the Regulators.

5.3.2 CIPF Actions in Respect of Member Firms

The CIPF will prepare and provide to the Applicable Regulators a report detailing any action taken with respect to a Member Firm. For Member Firm failures, the report will describe the circumstances of the failure, including a summary of the actions taken by the Member Firm, the Participating SRO and the CIPF and any committee or person acting on behalf of such parties. These reports will be delivered within 90 days of the action taken by the CIPF or Participating SRO or the liquidation of the Member Firm or at such other time as agreed to between the parties hereto.

5.4 Review and Approval of By-law

The CIPF will file with the Approving Regulators any proposed changes to the CIPF's By-law Number 1 for prior approval. The Approving Regulators will review and approve any proposed changes to the CIPF's By-law Number 1 according to the process set out in Schedule C to this MOU.

6. Miscellaneous Provisions

6.1 Confidentiality

All notices, reports, documents and any other information provided pursuant to this MOU are being provided for regulatory purposes and will be supplied and maintained in confidence, except as required for regulatory purposes.

6.2 Authority

Nothing in this MOU is intended to limit the powers of any of the Regulators under applicable securities laws to take any measures authorized under such laws.

6.3 Legal Action Against the CIPF

Nothing in this MOU will be interpreted to prevent a Customer from taking legal action against the CIPF in a court of competent jurisdiction in Canada, nor will the CIPF contest the jurisdiction of such a court to consider a claim where the claimant has exhausted the CIPF's internal claim review process.

6.4 Effective Date

This MOU comes into effect on ●, 2008.

Schedule A

Oversight Reviews

- 1) Each Participating Regulator will provide to the Principal Regulator their report points on the results of the review;
- 2) Within 20 business days of receipt of all report points, the Principal Regulator will prepare a draft report combining the report points of the Participating Regulators and send it to the Participating Regulators for comment;
- 3) Any Participating Regulator that has comments on the draft report will send its comments to the Principal Regulator within 10 business days of receiving the draft report, with copies to the other Participating Regulators;
- 4) The Principal Regulator will consolidate the comments of the Participating Regulators and revise the draft report, as necessary, within 15 business days of receiving the comments;
- 5) The Principal Regulator will forward a copy of the revised draft report to the CIPF for it to confirm the factual accuracy of the draft report;
- 6) The CIPF will review the draft report for factual accuracy and respond with comments within 15 business days of receipt;
- 7) Within 15 business days of receiving the CIPF's comments, the Principal Regulator will take into account the CIPF's comments, revise the draft report as necessary and forward a copy of the draft report and the CIPF's comments to the Participating Regulators for comment;
- 8) Within 10 business days of receipt, the Participating Regulators will review the draft report and the CIPF's comments and respond with comments;
- 9) The Principal Regulator will consolidate these comments, revise the draft report, as necessary, then release the final report to the CIPF for formal response, within 15 business days of receiving the Participating Regulators' comments;
- 10) The CIPF will use its best efforts to respond to the report within 20 business days of receipt;
- 11) The Principal Regulator will review the CIPF's response, develop a follow-up plan and forward a copy of the follow-up plan and the CIPF's response to the Participating Regulators for comments, within 15 business days of receiving the CIPF's response;
- 12) The Participating Regulators will review the follow-up plan and respond with comments within 10 business days of receipt, with copies to the other Participating Regulators;
- 13) The Principal Regulator will consolidate these comments and revise the follow-up plan as necessary;
- 14) The Principal Regulator and the Participating Regulators will seek any necessary approvals of the follow-up plan; and
- 15) The Principal Regulator will provide the final report, including the CIPF's response and the follow-up plan, to the staff of the Regulators, the CSA Chairs and the CIPF.

Schedule B

Reporting to the CSA

1) Requested Information

- a) A Regulator may, at any time, request any reports, documents, or information from the CIPF and the CIPF will comply with that request for information.

2) Prior Notification

- a) The CIPF will provide, to the CSA, at least 60 days prior notice before:
 - i) Implementing any changes to its Coverage Policies;
 - ii) Implementing any changes to its method of assessing Member Firms;
 - iii) Implementing any changes to the Industry Agreement; and
 - iv) Adding an SRO as a party to the Industry Agreement.
- b) In emergency situations, where, in the opinion of the CIPF, 60 days prior notice is considered unreasonable, the CIPF will inform the CSA with as much advance notice as possible in the circumstances. Such notice will include an explanation of why the 60-day period is considered to be unreasonable.

3) Ad Hoc Reporting

- a) The CIPF will immediately report to the Applicable Regulators any Reportable Conditions with respect to a Member Firm of which the CIPF has been notified.
- b) The CIPF will immediately report to the CSA where a Participating SRO has withdrawn or has been expelled from participation in the CIPF. The CIPF will include in its report the reasons for the SRO's withdrawal or expulsion.
- c) The CIPF will immediately report to the CSA any actual or potential material adverse change in the level of CIPF assets, together with the CIPF's plan to deal with the situation.
- d) The CIPF will report to the CSA any changes to its investment policies within 30 days of such changes.

4) Annual Reporting

- a) The CIPF will file with the CSA its annual audited financial statements, together with the report of the auditor, within 90 days after the end of each fiscal year.
- b) The CIPF will provide the following information to the CSA, within 90 days after the end of each fiscal year:
 - i) Description of any changes in the composition of the CIPF's Board of Directors in the previous fiscal year, including the names and terms of any incoming directors, the names of any outgoing directors, and whether any incoming directors are public directors as defined in the CIPF's By-law Number 1;
 - ii) Description of any changes to the CIPF's by-laws;
 - iii) Any suggestions that the CIPF has made to any Participating SROs in the previous fiscal year regarding the Participating SROs' making new rules or amending existing rules, and the Participating SROs' response to those suggestions; and
 - iv) Where the CIPF has directed a Participating SRO to take certain actions about Member Firms that are in financial difficulty pursuant to the Industry Agreement, details about the CIPF's direction and comment on whether the CIPF is satisfied with the Participating SRO's response.
- c) The CIPF will provide a written report to CSA staff and meet with the CSA Chairs at least once a year to report on the CIPF's operations and activities, including but not limited to:

- i) The Board of Directors' annual review of the adequacy of the level of assets in the Fund, assessment amounts, and assessment methodology;
- ii) The CIPF resources, including whether the CIPF is fully staffed;
- iii) Member Firm failures and any resulting Customer claims;
- iv) Risk management issues, including how the CIPF evaluated risks, what risk management issues were identified and how the CIPF dealt with these issues;
- v) The Board of Directors' assessment of the need for additional risk management tools; and
- vi) The extent and results of any Member Firm reviews conducted pursuant to the Industry Agreement.

Schedule C

Review and Approval of By-law Amendments

In reviewing and approving changes to the CIPF's By-law Number 1, the Approving Regulators will use their best efforts to adhere to the following process:

- 1) The CIPF will file each proposed change to the CIPF's By-law Number 1 ("Amendment") with each Approving Regulator;
- 2) Upon receipt of an Amendment, staff of the Principal Regulator will immediately send confirmation of receipt of the Amendment to the CIPF, with copies to the other Approving Regulators;
- 3) If, in the opinion of the Approving Regulators, the Amendment raises public interest issues or concerns, the Approving Regulators may publish the Amendment for a 30-day comment period;
- 4) Within 20 business days of receiving the confirmation of receipt of the Amendment, staff of each of the Approving Regulators will provide significant comments to staff of the Principal Regulator in writing, with copies to the other Approving Regulators. If staff of the Principal Regulator does not receive any such comments within the 20-business-day period, the other Approving Regulators will be deemed to not have any comments;
- 5) Within 7 business days of the end of the 20-business-day period, staff of the Principal Regulator will consolidate all comments received and send a comment letter to the CIPF. In the event that comments received conflict, staff of the Approving Regulators will try to reach an agreement to deal with the conflict;
- 6) Within 14 business days of receipt of the comment letter, the CIPF will respond in writing to the Principal Regulator, with a copy to each of the other Approving Regulators;
- 7) Each of the other Approving Regulators will provide material comments to the Principal Regulator in writing within 10 business days of the CIPF's response, and the Principal Regulator will provide its comments to the other Approving Regulators within the same period; if the Principal Regulator does not receive any comments within the 10-business-day period, the other Approving Regulators will be deemed not to have any comments;
- 8) The CIPF and the Approving Regulators will discuss and attempt to resolve the concerns raised by any of the Approving Regulators within 20 business days of receiving comments from staff of the other Approving Regulators regarding the CIPF's response, but if the concerns are not resolved to the satisfaction of all Approving Regulators, review of the Amendment will be escalated to be discussed among the Chairs or other senior executives of the Approving Regulators;
- 9) Staff of the Principal Regulator will prepare documentation for approval of the Amendment by the Principal Regulator within 14 business days of resolving comments under paragraph (8);
- 10) After an Amendment is approved by the Principal Regulator, staff of the Principal Regulator will promptly circulate the approval documentation to the other Approving Regulators;
- 11) Staff of the other Approving Regulators will seek the necessary approval within 20 business days of receipt of the documentation from the Principal Regulator, or such later time as is mutually agreed by staff of the Approving Regulators;
- 12) Staff of each Approving Regulators will inform staff of the Principal Regulator in writing of the decision concerning the Amendment immediately following the decision;
- 13) Staff of the Principal Regulator will communicate in writing the approval of an Amendment to the CIPF and to all Regulators promptly upon receipt of notification from all of the other Approving Regulators of their decision.

**IN THE MATTER OF
THE SECURITIES ACT, R.S.O. 1990, C.S.5,
AS AMENDED (the Act)**

AND

**IN THE MATTER OF
REGULATION 1015 MADE UNDER THE ACT, R.R.O. 1990,
AS AMENDED (the Regulation)**

AND

**IN THE MATTER OF
THE COMMODITY FUTURES ACT, R.S.O. 1990, C.20,
AS AMENDED (the CFA)**

AND

**IN THE MATTER OF
REGULATION 90 MADE UNDER THE CFA, R.R.O. 1990,
AS AMENDED (the CFA Regulation)**

AND

**IN THE MATTER OF
THE CANADIAN INVESTOR PROTECTION FUND
AMENDMENT AND RESTATEMENT OF APPROVAL ORDER
(Section 144 of the Act and Section 78 of the CFA)**

WHEREAS the Commission issued an order on October 17, 2002, approving the Canadian Investor Protection Fund (CIPF) pursuant to section 110(1) of the Regulation and to section 23 of the CFA Regulation (Previous Order);

AND WHEREAS the Commission and the CIPF wish to amend the terms and conditions of the Previous Order to reflect changes to the CIPF's roles and responsibilities;

AND WHEREAS the Commission has determined that it is not prejudicial to the public interest to issue an order that amends and restates the Previous Order to reflect changes to the CIPF's roles and responsibilities;

IT IS HEREBY ORDERED, pursuant to section 144 of the Act and section 78 of the CFA, that the Previous Order be amended and restated as follows:

**IN THE MATTER OF
THE SECURITIES ACT, R.S.O. 1990, C.S.5,
AS AMENDED (the Act)**

AND

**IN THE MATTER OF
REGULATION 1015 MADE UNDER THE ACT, R.R.O. 1990,
AS AMENDED (the Regulation)**

AND

**IN THE MATTER OF
THE COMMODITY FUTURES ACT, R.S.O. 1990, C.20,
AS AMENDED (the CFA)**

AND

**IN THE MATTER OF
REGULATION 90 MADE UNDER THE CFA, R.R.O. 1990,
AS AMENDED (the CFA Regulation)**

AND

**IN THE MATTER OF
THE CANADIAN INVESTOR PROTECTION FUND**

**APPROVAL ORDER
(Section 110 of the Regulation and Section 23 of the CFA Regulation)**

Pursuant to Section 110(1) of the Regulation, every dealer, other than a security issuer, shall participate in a compensation fund or contingency trust fund approved by the Commission and established by an organization referred to in Section 21 of the Act or a trust corporation registered under the Loan and Trust Corporations Act;

Pursuant to Section 23 of the CFA Regulation, every registered futures commission merchant shall participate in either a compensation fund that a self-regulatory organization under Section 16 of the CFA or a commodity futures exchange registered under Section 15 of the CFA participates in or established, or a contingency trust fund established by a trust corporation registered under the Loan and Trust Corporations Act;

The Canadian Investor Protection Fund (CIPF) is approved as a compensation fund under Section 110 of the Regulation and under Section 23 of the CFA Regulation and has applied for amendments to such approvals;

The CIPF was established by sponsoring self-regulatory organizations (SROs); currently, the Investment Dealers Association of Canada (IDA) is the only sponsoring SRO of the CIPF;

The Commission has recognized the IDA as an SRO under Section 21.1 of the Act and under Section 15 of the CFA;

The CIPF provides protection on a discretionary basis to prescribed limits to eligible customers of SRO members suffering losses if customer property comprising securities, cash and other property held by such members is unavailable as a result of the insolvency of the member and, in connection with such coverage, will engage in risk management activities to minimize the likelihood of such losses (CIPF Mandate);

The CIPF, the IDA, The Toronto Stock Exchange Inc., TSX Venture Exchange Inc. and Bourse de Montréal Inc. entered into an agreement dated December 14, 2001, pursuant to which the CIPF, among other things, provides certain financial compliance oversight of these SROs and financial examination of members of these SROs;

The CIPF and these SROs wish to terminate and replace the agreement with an agreement between the IDA, or its successor, and the CIPF that reflects the realignment of their respective regulatory roles and responsibilities, including the elimination of the CIPF's SRO oversight role and member examination functions (Industry Agreement);

The Industry Agreement contemplates that other SROs may become parties to the Industry Agreement (together with the IDA, Participating SROs);

Pursuant to the Industry Agreement, the Participating SROs must levy assessments on their members (Member Firms) and the Participating SROs must pay to the CIPF the amount of these assessments;

The CIPF entered into a Memorandum of Understanding (MOU) with twelve of the members of the Canadian Securities Administrators (CSA). The CIPF also entered into a MOU with the Commission des valeurs mobilières du Québec (now, the Autorité des marchés financiers (Autorité)). The CIPF and the twelve members of the CSA have amended and restated the MOU to reflect the proposed realignment of regulatory roles and responsibilities as between the CIPF and its Participating SROs. The Autorité will rescind its MOU with the CIPF and become a party to the amended and restated MOU between the CIPF and the CSA;

Based on the application of the CIPF and the representations and undertakings the CIPF has made to the Commission, the Commission is satisfied that the continued approval of the CIPF would not be prejudicial to the public interest;

The Commission grants and continues the approval of the CIPF as a compensation fund pursuant to Section 110 of the Regulation and Section 23 of the CFA Regulation, subject to the terms and conditions set out in Schedule A:

Schedule A – Terms and Conditions

1. – Authority and Purpose

The CIPF has, and must continue to have, the appropriate authority and capacity to carry out the CIPF Mandate.

2. – Corporate Governance

- (a) The board of directors for the CIPF (Board of Directors) must be selected in a fair and reasonable manner and must fairly represent the interests of all Member Firms and their customers and properly balance the interests of Member Firms and their customers.
- (b) The Board of Directors must be composed of an equal number of Industry Directors and Public Directors, as defined in the CIPF's By-law Number 1, together with the Chair and the President and Chief Executive Officer of the CIPF.
- (c) The CIPF's governance structure must provide for:
 - (i) fair and meaningful representation on the Board of Directors and any committees of the Board of Directors, having regard to the differing interests between Member Firms and their customers;
 - (ii) appropriate representation of persons independent of the Participating SROs or any of their Member Firms or of any affiliated or associated company of such Member Firm on the CIPF committees and on any executive committee or similar body;
 - (iii) appropriate qualification, remuneration, conflict of interest provisions and limitation of liability and indemnification protections for directors and officers and employees of the CIPF generally; and
 - (iv) an audit committee, the majority of which must be made of Public Directors.
- (d) The CIPF must file any changes to the CIPF's By-law Number 1 with the Commission for prior approval, according to the provisions of the MOU between the CIPF and the CSA.

3. – Funding and Maintenance of the CIPF

- (a) The CIPF must institute a fair, transparent, and reasonable method of establishing assessments for each Member Firm's contribution. The assessments must:
 - (i) be allocated on an equitable basis among Member Firms and may be based on the amount of risk a Member Firm contributes to the fund (Fund); and
 - (ii) balance the need for the CIPF to have sufficient revenues to satisfy claims in the event of an insolvency of a Member Firm and to have sufficient financial resources to satisfy its operations costs against the goal that there be no unreasonable financial barriers to becoming a member of an SRO.
- (b) The CIPF must make all necessary arrangements for the notification to Member Firms of the CIPF assessments and the collection of such assessments, either directly or indirectly through a Participating SRO.
- (c) The Board of Directors of the CIPF must determine the appropriate level of assets for the CIPF. The Board of Directors will conduct an annual review of the adequacy of the level of assets, assessment amounts, and assessment methodology and will ensure that the level of assets of the CIPF remains, in its opinion, adequate to cover potential claims.
- (d) Moneys in the Fund must be invested in accordance with policies, guidelines or other instruments approved by the Board of Directors, who will be responsible for regular monitoring of the investments. All moneys and securities must be held by a qualified custodian, which are those entities considered suitable to hold securities on behalf of a Member Firm, for both inventory and client positions, without capital penalty, pursuant to the bylaws, rules or regulations of the Participating SROs.
- (e) The CIPF must implement an appropriate accounting system, including a system of internal controls for maintaining CIPF assets.

4. – Customer Protection

- (a) The CIPF must establish and maintain coverage policies (Coverage Policies) to provide for fair and adequate coverage, on a discretionary basis, for all customers of Member Firms, who are not ineligible claimants as determined pursuant to the Coverage Policies, for losses of property comprising securities, cash, and other property held by Member Firms resulting from the insolvency of a Member Firm.
- (b) The Coverage Policies must include fair and reasonable policies for assessing claims made to the CIPF. The CIPF will respond as quickly as practicable in assessing and paying claims made pursuant to those policies.
- (c) The CIPF must establish within its Coverage Policies a fair and reasonable internal claim review process whereby claims that are not accepted for payment by the CIPF staff or by an appointed committee will be reconsidered by the Board of Directors or a review panel of one or more Directors, if requested by a customer of a Member Firm or by the CIPF staff. The Coverage Policies must include criteria established by the Board of Directors for the selection of the review panel members, including criteria that no Director involved in the initial decision will be involved in reconsidering that decision.
- (d) The CIPF must adequately inform customers of Member Firms, either directly or indirectly through a Participating SRO, of the principles and policies on which coverage will be available, including, but not limited to, the process for making a claim and the maximum coverage available per customer account.

5. – Financial and Operational Viability

The CIPF must maintain adequate financial and operational resources, including adequate staff resources or external professional advisers, to permit the CIPF to exercise its rights and perform its duties under the MOU between the CIPF and the CSA and this order and to conduct Member Firm reviews as required pursuant to Article 4 of the MOU.

6. – Risk Management

The CIPF must ensure that it has policies and procedures, including a process to identify and request all necessary information from a Participating SRO, in order for the CIPF to:

- (a) fulfill its mandate and manage risks to the public and to CIPF assets;
- (b) assess whether the prudential standards and operations of the CIPF are appropriate for the coverage provided and the risk incurred by the CIPF; and
- (c) identify and deal with Member Firms that may be in financial difficulty.

7. – Agreement between the CIPF and the IDA

The CIPF must enter into and comply with the Industry Agreement signed with the IDA and any Participating SRO.

8. – Assistance to Participating SRO

The CIPF must assist a Participating SRO when a Member Firm is in or is approaching financial difficulty. Such assistance will be provided in any way the CIPF determines to be appropriate.

9. – Collection of Information

The CIPF must, subject to applicable legislation, collect, use and disclose personal information only to the extent reasonably necessary to carry out the CIPF Mandate.

10. – Memorandum of Understanding

The CIPF must comply with the MOU between the CSA and the CIPF, signed ●, 2008.