



**APPENDIX A**  
**TERMS AND CONDITIONS**

**1. Recognition Criteria**

IIROC must continue to meet the criteria attached at Schedule 1.

**2. Approval of Changes**

a. Prior Commission approval is required for any changes to the following:

(i) the corporate governance structure of IIROC, as reflected in IIROC's By-law No. 1 (By-law No. 1);

(ii) IIROC's articles of incorporation or continuance; and

(iii) the assignment, transfer, delegation or sub-contracting of the performance of all or a substantial part of its regulatory functions or responsibilities as a self-regulatory organization.

b. Prior Commission approval is required for material changes to the following:

(i) the fee model;

(ii) the functions IIROC performs;

(iii) IIROC's organizational structure;

(iv) the activities, responsibilities, and authority of the District Councils; and

(v) the Regulation Services Agreement between IIROC and any Marketplace Member.

**3. Status**

a. IIROC must operate on a not-for-profit basis.

b. IIROC must comply with any terms and conditions the Commission may impose in the public interest concerning any transaction that would result in IIROC:

- (i) ceasing to perform its services;
- (ii) discontinuing, suspending or winding-up all or a significant portion of its operations;
- (iii) disposing of all or substantially all of its assets; or
- (iv) terminating its agreement with an information technology service provider providing critical technology systems.

#### **4. Rules and Rule-Making**

IIROC must comply with the process for filing and obtaining Commission approval for by-laws, Rules and any amendments to by-laws or Rules as outlined in Appendix B of the MOU, as amended from time to time.

#### **5. Governance**

a. IIROC must:

(i) ensure that at least 50% of its board of directors (Board), other than the President of IIROC, are independent directors as defined in By-law No. 1;

(ii) ensure that one of the directors represents an exchange or ATS that is not affiliated with a marketplace

(A) that retains IIROC, and

(B) has at least a 40% Market Share as defined in By-law No. 1 (Market Share); and

(iii) review the corporate governance structure, including the composition of the Board, at the request of the Commission,

to ensure that there is a proper balance between, and effective representation of, the public interest and the interests of marketplaces, dealers and other entities desiring access to the services provided by IIROC.

#### **6. Due Process**



Subject to applicable law and the Rules and by-laws of IIROC, before rendering a decision that affects the rights of a person or company in relation to membership, registration or enforcement matters, IIROC must provide that person or company an opportunity to be heard.

## **7. Performance of Regulatory Functions**

- a. IIROC must set Rules governing its members and others subject to its jurisdiction.
- b. IIROC must administer and monitor compliance with the Rules and securities laws by members and others subject to its jurisdiction and enforce compliance with the Rules by Dealer Members, including ATs, and others subject to its jurisdiction.
- c. If retained by an exchange or QTRS, IIROC must administer, monitor and/or enforce rules pursuant to an RSA.
- d. IIROC must, subject to applicable legislation, collect, use and disclose personal information only to the extent reasonably necessary to carry out its regulatory activities and mandate.
- e. IIROC must ensure that it is accessible for contact by the public for purposes relating to the performance of its functions as a self-regulatory organization.
- f. IIROC must publish concurrently in English and French each document issued to the public or generally to any class of members.
- g. IIROC must adopt policies and procedures designed to ensure that confidential information about its operations or those of any Dealer Member, Marketplace Member or marketplace participant is maintained in confidence and not shared inappropriately with other persons, and must use all reasonable efforts to comply with these policies and procedures.
- h. IIROC must, at least annually, self-assess IIROC's performance of its regulatory responsibilities, and report thereon to its Board, together with any recommendations for improvements.

## **8. Use of Fines and Settlements**

All fines collected by IIROC and all payments made under settlement agreements entered into with IIROC may be used only as follows:

a. as approved by the Corporate Governance Committee,

(i) for the development of systems or other expenditures that are necessary to address emerging regulatory issues and are directly related to protecting investors or the integrity of the capital markets, provided that any such use does not constitute normal course operating expenses;

(ii) for education or research projects that are directly relevant to the investment industry, are in the public interest, and which benefit the public or the capital markets;

(iii) to contribute to a non-profit, tax-exempt organization, the purposes of which include protection of investors, or those described in paragraph (a)(ii);

(iv) for such other purposes as may be subsequently approved by the Commission; or

b. for reasonable costs associated with the administration of IIROC's hearing panels.

## **9. Disciplinary Matters**

a. Subject to paragraph (b), IIROC must

(i) promptly notify the public and the news media of:

(A) the specifics relating to each disciplinary or settlement hearing once the hearing date is set, and

(B) the terms of each settlement and the disposition of each disciplinary action once the terms or disposition is determined; and

(ii) ensure that disciplinary and settlement hearings are open to the public and the news media.

b. Despite paragraph (a), IIROC may, on its own initiative or on request, order a closed-door hearing or prohibit the publication or release of information or documents if it

determines that it is required for the protection of confidential matters. IIROC must establish written criteria for making a determination of confidentiality.

## **10. Capacity and Integrity of Systems**

a. IIROC must

(i) ensure that each of IIROC's critical technology systems has

(A) appropriate internal controls to ensure integrity and security of information; and

(B) reasonable and sufficient capacity, and backup to enable IIROC to properly carry on its business; and

(ii) have controls to manage the risks associated with its operations, including an annual review of its contingency and business continuity plans.

b. IIROC must, on a reasonably frequent basis, and in any event at least annually, cause to be performed an independent review of the controls and capacity described in paragraph (a) above in accordance with established audit procedures and standards. The Board must conduct a review of the report containing the recommendations and conclusions of the independent review.

IIROC must also, on a reasonably frequent basis, and in any event at least annually, complete the following, which may be completed as part of the independent review:

(i) make reasonable current and future capacity estimates for its critical technology systems;

(ii) conduct capacity stress tests to determine the ability of those systems to perform its regulation functions in an accurate, timely and efficient manner;

(iii) review and keep current the development and testing methodology of those systems; and

(iv) review the vulnerability of those systems to internal and external threats including physical hazards and natural disasters.



c. The term and condition in paragraph (b) above will not apply if:

(i) the information technology provider retained by IIROC is required, either by law or otherwise, to conduct an annual independent review; and

(ii) IIROC's Board obtains and reviews annually a copy of the independent review report of its information technology provider to ensure that it has controls in place to address the matters outlined in paragraphs (a) and (b) above.

d. IIROC must, periodically or at the request of the Commission, benchmark surveillance systems and services provided by its information technology providers against comparable systems and services available from other third-party technology providers.

## **11. Ongoing Reporting Requirements**

a. IIROC must comply with reporting requirements set out in Schedule 2 of this Recognition Order, as amended from time to time by the Commission or its staff.

b. IIROC must provide the Commission with other reports, documents and information as the Commission or its staff may request.

## **SCHEDULE 1**

### **CRITERIA FOR RECOGNITION**

#### **1. Governance**

a. The governance structure and arrangements must ensure:

(i) effective oversight of the entity;

(ii) fair, meaningful and diverse representation on the governing body (Board) and any committees of the Board, including a reasonable proportion of independent directors;

(iii) a proper balance among the interests of the different persons or companies subject to regulation by IIROC; and

(iv) each director or officer is a fit and proper person.

## **2. Public Interest**

IIROC must regulate to serve the public interest in protecting investors and market integrity. It must articulate and ensure it meets a clear public interest mandate for its regulatory functions.

## **3. Conflicts of interest**

IIROC must effectively identify and manage conflicts of interest.

## **4. Fees**

a. All fees imposed by IIROC must be equitably allocated. Fees must not have the effect of creating unreasonable barriers to access.

b. The process for setting fees must be fair and transparent.

c. IIROC must operate on a cost-recovery basis.

## **5. Compensation or Contingency Trust Funds**

IIROC must comply with the Industry Agreement signed with the Canadian Investor Protection Fund (CIPF).

## **6. Access**

a. IIROC must have reasonable written criteria that permit all persons or companies that satisfy the criteria to access IIROC's regulatory services.

b. The access criteria and the process for obtaining access should be fair and transparent.

## **7. Financial Viability**

IIROC must have sufficient financial resources for the proper performance of its functions and to meet its responsibilities.



## **8. Capacity to Perform Regulatory Functions**

a. IIROC must maintain its capacity to effectively and efficiently perform its regulatory functions, which include governing the conduct of persons or companies subject to its regulation and monitoring and enforcing applicable requirements.

b. IIROC must maintain in each jurisdiction where it has an office

(i) sufficient financial, technological, human and other resources; and

(ii) appropriate organizational structures and adequate technological systems

to efficiently, effectively and in a timely manner perform its regulatory functions and responsibilities.

## **9. Capacity and Integrity of Systems**

IIROC must maintain controls to ensure capacity, integrity requirements and security of its technology systems.

## **10. Rules**

a. IIROC must establish and maintain Rules that:

(i) are necessary or appropriate to govern and regulate all aspects of its functions and responsibilities as a self-regulatory entity;

(ii) are designed to:

(A) ensure compliance with securities laws,

(B) prevent fraudulent and manipulative acts and practices,

(C) promote just and equitable principles of trade and the duty to act fairly, honestly and in good faith,

(D) foster cooperation and coordination with entities engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities,

(E) foster fair, equitable and ethical business standards and practices,

(F) promote the protection of investors, and

(G) provide for appropriate discipline of those whose conduct it regulates;

(iii) do not impose any burden or constraint on competition or innovation that is not necessary or appropriate in furtherance of IIROC's regulatory objectives;

(iv) do not impose costs or restrictions on the activities of market participants that are disproportionate to the goals of the regulatory objectives sought to be realized; and

(v) are not contrary to the public interest.

## **11. Disciplinary Matters**

The process for discipline must be fair and transparent.

## **12. Information Sharing and Regulatory Cooperation**

To assist the Commission and other regulatory authorities in carrying out their regulatory mandates, IIROC must share information and cooperate with:

a. the Commission and any other securities regulatory authority, whether domestic or foreign;

b. exchanges;

c. self-regulatory organizations;

d. clearing agencies;

e. financial intelligence or law enforcement agencies or authorities; and

f. investor protection or compensation funds, whether domestic or foreign.

This assistance includes the collection and sharing of information and other forms of assistance for the purpose of market surveillance, investigations, enforcement litigation, investor protection and compensation and for any other regulatory purpose and is subject to applicable laws related to information sharing and protection of personal information.

### **13. Other Criteria -- Québec**

Constituting documents, by-laws and operating rules of IIROC should allow that the power to make decisions relating to the supervision of its activities in Québec will be exercised mainly by persons residing in Québec.

## **SCHEDULE 2 REPORTING REQUIREMENTS**

### **1. Prior Notification**

a. IIROC will provide the Commission with at least twelve months' written notice prior to completing any transaction that would result in IIROC:

- (i) ceasing to perform its services;
- (ii) discontinuing, suspending or winding-up all or a significant portion of its operations;  
or
- (iii) disposing of all or substantially all of its assets.

b. IIROC will provide the Commission with at least three months' written notice prior to:

- (i) terminating its agreement with an information technology service provider providing critical technology systems; or
- (ii) any intended material change to its agreement with an information technology service provider regarding its critical technology systems.

### **2. Immediate Notification**



IIROC will immediately notify the Commission of the following events:

- a. the admission of a new member, including the member's name, and any terms and conditions that are imposed on the member;
- b. members whose rights and privileges or membership will be suspended or terminated, including:
  - (i) the member's name;
  - (ii) the reasons for the proposed suspension or termination; and
  - (iii) a description of the steps being taken to ensure that the member's clients are being dealt with appropriately;
- c. receipt of a member's intention to resign.
- d. receipt of an application for a Board exemption or amendment to a Board exemption that could have a significant impact on:
  - (i) IIROC members and others subject to IIROC's jurisdiction, or
  - (ii) the capital markets generally including, for greater clarity, certain stakeholders or sectors.

The notice required by this section, other than in (d), may be provided by IIROC issuing a public notice containing the information, provided that such public notice will be issued immediately after the decision is made for admission, suspension or termination of membership and immediately after receipt of a notice of intention to resign, as the case may be.

### **3. Prompt Notification**

IIROC will provide the Commission with prompt notice of the following events and situations, and in each case describe the circumstances that gave rise to the reportable event or situation, and IIROC's proposed response to ensure resolution, and, if appropriate, provide timely updates:

- a. situations that would reasonably be expected to raise concerns about IIROC's financial viability, including but not limited to, an inability to meet its expected expenses for the next quarter or the next year;
- b. any determination by IIROC, or notification from any of the Recognizing Regulators, that IIROC is not or will not be in compliance with one or more of the terms and conditions of its recognition in any jurisdiction, or with one or more of the criteria for recognition set out in Schedule 1;
- c. any material violations of securities legislation of which IIROC becomes aware in the ordinary course operation of its business;
- d. any material failures in the controls described in terms and conditions 10(a)(i) and (ii) of Appendix A to this Recognition Order;
- e. any failure, malfunction, delay or security breach, including material cyber security breaches, of IIROC's critical systems or technology systems that support IIROC's critical systems;
- f. any breach of security safeguards involving information under IIROC's control if it is reasonable in the circumstances to believe that the breach creates a real risk of significant harm to investors, issuers, registrants, other market participants, IIROC, CIPF, or the capital markets;
- g. any material change to the information set out in the application letter dated December 21, 2007;
- h. actual or apparent misconduct or non-compliance by members, Approved Persons, marketplace participants, or others, where investors, clients, creditors, members, CIPF, or IIROC may reasonably be expected to suffer serious damage as a consequence thereof, including but not limited to:
  - (i) where fraud appears to be present; or
  - (ii) where serious deficiencies in supervision or internal controls exist;

i. situations that would reasonably be expected to raise concerns about a member's continued viability, including but not limited to, capital deficiency, early warning, and any condition which, in the opinion of IIROC, could give rise to payments being made out of CIPF, including any condition which, alone or together with other conditions, could, if appropriate corrective action is not taken, reasonably be expected to:

(i) inhibit the member from promptly completing securities transactions, promptly segregating clients' securities as required or promptly discharging its responsibilities to clients, other members, or creditors;

(ii) result in material financial loss to the member or its clients; or

(iii) result in material misstatement of the member's financial statements;

j. any action taken by IIROC with respect to a member in financial difficulty;

k. any terms and conditions imposed, varied or removed by IIROC relating to a member;

l. any enforcement agreement and undertaking entered into, varied or rescinded at IIROC's request relating to a member.

#### **4. Quarterly Reporting**

IIROC will file on a quarterly basis with the Commission a report pertaining to IIROC's regulatory operations promptly after the report is reviewed or approved by IIROC's Board, board committees, or senior management, as the case may be, containing at a minimum the following information and documents:

a. a summary of ongoing initiatives, policy changes, and emerging or key issues that arose in the previous quarter for each of IIROC's regulatory operations;

b. a summary of all compliance examinations in progress or completed during the previous quarter, and all compliance examinations scheduled to be commenced in the upcoming quarter by IIROC office and department, including information on repeat or significant deficiencies;



- c. a summary of any terms and conditions imposed, varied or removed relating to Approved Persons during the previous quarter;
- d. a summary of all discretionary exemptions granted to individuals, members, and marketplace participants during the previous quarter;
- e. summary statistics for the previous quarter regarding all client complaints, and complaints received from other sources including, but not limited to, any other securities regulatory authority;
- f. summary statistics by IIROC office for the previous quarter regarding the caseload for each of case assessment, trading review and analysis, market surveillance, investigations and prosecutions, separated between Member and Marketplace Regulation cases, including the length of time the files have been open;
- g. a summary of enforcement files that were referred to any of the Recognizing Regulators during the previous quarter; and
- h. IIROC's regulatory staff complement, by function, and details of any material changes or reductions in regulatory staffing, by function, during the previous quarter.

## **5. Annual Reporting**

IIROC will file on an annual basis with the Commission a report pertaining to IIROC's regulatory operations promptly after the report is reviewed or approved by IIROC's Board, board committees, or senior management, as the case may be, containing at a minimum the following documents:

- a. the self-assessment referred to in term and condition 7(h) of Appendix A to this Recognition Order. The self-assessment must contain information as specified by Commission staff from time to time and include the following information:
  - (i) an assessment of how IIROC is meeting its regulatory mandate, including an assessment against the recognition criteria in Schedule 1 to the Recognition Order and the terms and conditions in Appendix A to the Recognition Order;
  - (ii) an assessment against its strategic plan;

(iii) a description of trends seen as a result of compliance reviews, investigations and prosecutions conducted, and complaints received, including IIROC's plan to deal with any issues;

(iv) whether IIROC is meeting its benchmarks, and reasons for any benchmarks not being met;

(v) a description and update on significant projects undertaken by IIROC; and

(vi) a description of issues raised by any of the Recognizing Regulators, external auditors or internal audit, which are being tracked by IIROC's senior management, together with a summary of the progress made on their resolution; and

b. certification by IIROC's Chief Executive Officer and General Counsel that IIROC is in compliance with the terms and conditions applicable to it in Appendix A to this Recognition Order.

## **6. Financial Reporting**

a. IIROC will file with the Commission unaudited quarterly financial statements with notes within 60 days after the end of each financial quarter.

b. IIROC will file with the Commission audited annual financial statements accompanied by the report of an independent auditor within 90 days after the end of each fiscal year.

## **7. Other Reporting**

a. IIROC will provide the Commission on a timely basis with the following information and documents upon publication or completion of review and approval by IIROC's Board, board committees, or senior management, as the case may be:

(i) the results of any corporate governance review referred to in term and condition 5(a)(iii) of Appendix A to this Recognition Order;

(ii) material changes to the code of business ethics and conduct and the written policy about managing potential conflicts of interests of members of IIROC's Board;

(iii) changes in the members of IIROC's Board;

(iv) the financial budget for the current year, together with the underlying assumptions, that have been approved by IIROC's Board;

(v) the independent review report referred to in term and condition 10(b) of Appendix A to this Recognition Order;

(vi) the results of benchmarking of surveillance systems and services referred to in term and condition 10(d) of Appendix A to this Recognition Order, together with a summary of the process undertaken and conclusions reached;

(vii) enterprise risk management reports, and any material changes to enterprise risk management methodology;

(viii) the internal audit charter, annual internal audit plan, and internal audit reports;

(ix) the annual report for the current year;

(x) the compliance examination plan for the current year;

(xi) material changes to the compliance or enforcement processes or scope of work, including risk assessment models for:

(A) Financial and Operations Compliance;

(B) Business Conduct Compliance; and

(C) Trading Conduct Compliance.

b. IIROC will provide the Commission with reasonable prior notice of any document that it intends to publish or issue to the public or to any class of members which, in the opinion of IIROC, could have a significant impact on:

(i) its members and others subject to its jurisdiction; or

(ii) the capital markets generally.

c. IIROC will, upon request, provide the Commission with the following information and documents as soon as practicable:



(i) information concerning closed investigations or prosecutions which did not lead to disciplinary or settlement proceedings including the final investigation report and recommendation memorandum; and

(ii) information concerning enforcement matters that resulted in disciplinary or settlement proceedings including the final penalty memorandum.

## **1. Recognition Criteria**

IIROC must continue to meet the criteria attached at Schedule 1.

## **2. Approval of Changes**

- a. Prior Commission approval is required for any changes to the following:  
the corporate governance structure of IIROC, as reflected in IIROC's By-law No. 1 (By-law No. 1);

IIROC's articles of incorporation or continuance; and

the assignment, transfer, delegation or sub-contracting of the performance of all or a substantial part of its regulatory functions or responsibilities as a self-regulatory organization.

- b. Prior Commission approval is required for material changes to the following:

(i) the fee model;

(ii) the functions IIROC performs;

(iii) IIROC's organizational structure;

(iv) the activities, responsibilities, and authority of the District Councils; and

(v) the Regulation Services Agreement between IIROC and any Marketplace Member.

## **3. Status**

- a. IIROC must operate on a not-for-profit basis.

- b. IIROC must comply with any terms and conditions the Commission may impose in the public interest concerning any transaction that would result in IIROC:
- (i) ceasing to perform its services;
  - (ii) discontinuing, suspending or winding-up all or a significant portion of its operations;
- disposing of all or substantially all of its assets; or
- terminating its agreement with an information technology service provider providing critical technology systems.

#### **4. Rules and Rule-Making**

IIROC must comply with the process for filing and obtaining Commission approval for by-laws, Rules and any amendments to by-laws or Rules as outlined in Appendix B of the MOU, as amended from time to time.

#### **5. Governance**

- a. IIROC must:
- (i) ensure that at least 50% of its board of directors (Board), other than the President of IIROC, are independent directors as defined in By-law No. 1;
  - (ii) ensure that one of the directors represents an exchange or ATS that is not affiliated with a marketplace
- that retains IIROC, and
- has at least a 40% Market Share as defined in By-law No. 1 (Market Share); and
- review the corporate governance structure, including the composition of the Board, at the request of the Commission,

to ensure that there is a proper balance between, and effective representation of, the public interest and the interests of marketplaces, dealers and other entities desiring access to the services provided by IIROC.

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Subject to applicable law and the Rules and by-laws of IIROC, before rendering a decision that affects the rights of a person or company in relation to membership, registration or enforcement matters, IIROC must provide that person or company an opportunity to be heard.

## **7. Performance of Regulatory Functions**

- a. IIROC must set Rules governing its members and others subject to its jurisdiction.
- b. IIROC must administer and monitor compliance with the Rules and securities laws by members and others subject to its jurisdiction and enforce compliance with the Rules by Dealer Members, including ATs, and others subject to its jurisdiction.
- c. If retained by an exchange or QTRS, IIROC must administer, monitor and/or enforce rules pursuant to an RSA.
- d. IIROC must, subject to applicable legislation, collect, use and disclose personal information only to the extent reasonably necessary to carry out its regulatory activities and mandate.
- e. IIROC must ensure that it is accessible for contact by the public for purposes relating to the performance of its functions as a self-regulatory organization.
- f. IIROC must publish concurrently in English and French each document issued to the public or generally to any class of members.
- g. IIROC must adopt policies and procedures designed to ensure that confidential information about its operations or those of any Dealer Member, Marketplace



Member or marketplace participant is maintained in confidence and not shared inappropriately with other persons, and must use all reasonable efforts to comply with these policies and procedures.

- h. IIROC must, at least annually, self-assess IIROC's performance of its regulatory responsibilities, and report thereon to its Board, together with any recommendations for improvements.

## **8. Use of Fines and Settlements**

All fines collected by IIROC and all payments made under settlement agreements entered into with IIROC may be used only as follows:

- a. as approved by the Corporate Governance Committee,
  - (i) for the development of systems or other expenditures that are necessary to address emerging regulatory issues and are directly related to protecting investors or the integrity of the capital markets, provided that any such use does not constitute normal course operating expenses;
  - (ii) for education or research projects that are directly relevant to the investment industry, are in the public interest, and which benefit the public or the capital markets;
  - (iii) to contribute to a non-profit, tax-exempt organization, the purposes of which include protection of investors, or those described in paragraph (a)(ii);
  - (iv) for such other purposes as may be subsequently approved by the Commission; or
- b. for reasonable costs associated with the administration of IIROC's hearing panels.

## **9. Disciplinary Matters**

- a. Subject to paragraph (b), IIROC must
  - (i) promptly notify the public and the news media of:
    - (A) the specifics relating to each disciplinary or settlement hearing once the hearing date is set, and

(B) the terms of each settlement and the disposition of each disciplinary action once the terms or disposition is determined; and ensure that disciplinary and settlement hearings are open to the public and the news media.

- b. Despite paragraph (a), IIROC may, on its own initiative or on request, order a closed-door hearing or prohibit the publication or release of information or documents if it determines that it is required for the protection of confidential matters. IIROC must establish written criteria for making a determination of confidentiality.

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- (i) ensure that each of IIROC's critical technology systems has

(A) appropriate internal controls to ensure integrity and security of information; and

(B) reasonable and sufficient capacity, and backup to enable IIROC to properly carry on its business; and

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- a. IIROC must, on a reasonably frequent basis, and in any event at least annually, cause to be performed an independent review of the controls and capacity described in paragraph (a) above in accordance with established audit procedures and standards. The Board must conduct a review of the report containing the recommendations and conclusions of the independent review. IIROC must also, on a reasonably frequent basis, and in any event at least annually, complete the following, which may be completed as part of the independent review:

- (i) make reasonable current and future capacity estimates for its critical technology systems;

conduct capacity stress tests to determine the ability of those systems to perform its regulation functions in an accurate, timely and efficient manner;

review and keep current the development and testing methodology of those systems; and

review the vulnerability of those systems to internal and external threats including physical hazards and natural disasters.

- b. The term and condition in paragraph (b) above will not apply if:
  - (i) the information technology provider retained by IIROC is required, either by law or otherwise, to conduct an annual independent review; and
  - (ii) IIROC's Board obtains and reviews annually a copy of the independent review report of its information technology provider to ensure that it has controls in place to address the matters outlined in paragraphs (a) and (b) above.
- c. IIROC must, periodically or at the request of the Commission, benchmark surveillance systems and services provided by its information technology providers against comparable systems and services available from other third-party technology providers.

## **11. Ongoing Reporting Requirements**

- a. IIROC must comply with reporting requirements set out in Schedule 2 of this Recognition Order, as amended from time to time by the Commission or its staff.
- b. IIROC must provide the Commission with other reports, documents and information as the Commission or its staff may request.

## **SCHEDULE 1**

### **CRITERIA FOR RECOGNITION**

#### **1. Governance**

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  - (i) effective oversight of the entity;



fair, meaningful and diverse representation on the governing body (Board) and any committees of the Board, including a reasonable proportion of independent directors;

a proper balance among the interests of the different persons or companies subject to regulation by IIROC; and

each director or officer is a fit and proper person.

## **2. Public Interest**

IIROC must regulate to serve the public interest in protecting investors and market integrity. It must articulate and ensure it meets a clear public interest mandate for its regulatory functions.

## **3. Conflicts of interest**

IIROC must effectively identify and manage conflicts of interest.

## **4. Fees**

- a. All fees imposed by IIROC must be equitably allocated. Fees must not have the effect of creating unreasonable barriers to access.
- b. The process for setting fees must be fair and transparent.
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IIROC must comply with the Industry Agreement signed with the Canadian Investor Protection Fund (CIPF).

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- a. IIROC must have reasonable written criteria that permit all persons or companies that satisfy the criteria to access IIROC's regulatory services.

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- a. IIROC must maintain its capacity to effectively and efficiently perform its regulatory functions, which include governing the conduct of persons or companies subject to its regulation and monitoring and enforcing applicable requirements.
- b. IIROC must maintain in each jurisdiction where it has an office
  - (i) sufficient financial, technological, human and other resources; and
  - (ii) appropriate organizational structures and adequate technological systemsto efficiently, effectively and in a timely manner perform its regulatory functions and responsibilities.

## **9. Capacity and Integrity of Systems**

IIROC must maintain controls to ensure capacity, integrity requirements and security of its technology systems.

## **10. Rules**

- a. IIROC must establish and maintain Rules that:
  - (i) are necessary or appropriate to govern and regulate all aspects of its functions and responsibilities as a self-regulatory entity;
  - (ii) are designed to:
    - (A) ensure compliance with securities laws,
    - (B) prevent fraudulent and manipulative acts and practices,

(C) promote just and equitable principles of trade and the duty to act fairly, honestly and in good faith,

(D) foster cooperation and coordination with entities engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities,

(E) foster fair, equitable and ethical business standards and practices,

(F) promote the protection of investors, and

(G) provide for appropriate discipline of those whose conduct it regulates; do not impose any burden or constraint on competition or innovation that is not necessary or appropriate in furtherance of IIROC's regulatory objectives;

do not impose costs or restrictions on the activities of market participants that are disproportionate to the goals of the regulatory objectives sought to be realized; and

are not contrary to the public interest.

## **11. Disciplinary Matters**

The process for discipline must be fair and transparent.

## **12. Information Sharing and Regulatory Cooperation**

To assist the Commission and other regulatory authorities in carrying out their regulatory mandates, IIROC must share information and cooperate with:

- a. the Commission and any other securities regulatory authority, whether domestic or foreign;
- b. exchanges;
- c. self-regulatory organizations;



d. clearing agencies;

e. financial intelligence or law enforcement agencies or authorities; and

f. investor protection or compensation funds, whether domestic or foreign.

This assistance includes the collection and sharing of information and other forms of assistance for the purpose of market surveillance, investigations, enforcement litigation, investor protection and compensation and for any other regulatory purpose and is subject to applicable laws related to information sharing and protection of personal information.

### **13. Other Criteria -- Québec**

Constituting documents, by-laws and operating rules of IIROC should allow that the power to make decisions relating to the supervision of its activities in Québec will be exercised mainly by persons residing in Québec.

## **SCHEDULE 2 REPORTING REQUIREMENTS**

### **1. Prior Notification**

a. IIROC will provide the Commission with at least twelve months' written notice prior to completing any transaction that would result in IIROC:

(i) ceasing to perform its services;

(ii) discontinuing, suspending or winding-up all or a significant portion of its operations; or

(iii) disposing of all or substantially all of its assets.

IIROC will provide the Commission with at least three months' written notice prior to:

- (i) terminating its agreement with an information technology service provider providing critical technology systems; or
- (ii) any intended material change to its agreement with an information technology service provider regarding its critical technology systems.

## **2. Immediate Notification**

IIROC will immediately notify the Commission of the following events:

- a. the admission of a new member, including the member's name, and any terms and conditions that are imposed on the member;
- b. members whose rights and privileges or membership will be suspended or terminated, including:
  - (i) the member's name;
  - (ii) the reasons for the proposed suspension or termination; and
  - (iii) a description of the steps being taken to ensure that the member's clients are being dealt with appropriately;

receipt of a member's intention to resign.

receipt of an application for a Board exemption or amendment to a Board exemption that could have a significant impact on:

- (i) IIROC members and others subject to IIROC's jurisdiction, or
- (ii) the capital markets generally including, for greater clarity, certain stakeholders or sectors.

The notice required by this section, other than in (d), may be provided by IIROC issuing a public notice containing the information, provided that such public notice will be issued immediately after the decision is made for admission, suspension or termination of membership and immediately after receipt of a notice of intention to resign, as the case may be.

### 3. Prompt Notification

IIROC will provide the Commission with prompt notice of the following events and situations, and in each case describe the circumstances that gave rise to the reportable event or situation, and IIROC's proposed response to ensure resolution, and, if appropriate, provide timely updates:

- a. situations that would reasonably be expected to raise concerns about IIROC's financial viability, including but not limited to, an inability to meet its expected expenses for the next quarter or the next year;
- b. any determination by IIROC, or notification from any of the Recognizing Regulators, that IIROC is not or will not be in compliance with one or more of the terms and conditions of its recognition in any jurisdiction, or with one or more of the criteria for recognition set out in Schedule 1;
- c. any material violations of securities legislation of which IIROC becomes aware in the ordinary course operation of its business;
- d. any material failures in the controls described in terms and conditions 10(a)(i) and (ii) of Appendix A to this Recognition Order;
- e. any failure, malfunction, delay or security breach, including material cyber security breaches, of IIROC's critical systems or technology systems that support IIROC's critical systems;
- f. any breach of security safeguards involving information under IIROC's control if it is reasonable in the circumstances to believe that the breach creates a real risk of significant harm to investors, issuers, registrants, other market participants, IIROC, CIPF, or the capital markets;
- g. any material change to the information set out in the application letter dated December 21, 2007;
- h. actual or apparent misconduct or non-compliance by members, Approved Persons, marketplace participants, or others, where investors, clients, creditors,



members, CIPF, or IIROC may reasonably be expected to suffer serious damage as a consequence thereof, including but not limited to:

(i) where fraud appears to be present; or

(ii) where serious deficiencies in supervision or internal controls exist;

situations that would reasonably be expected to raise concerns about a member's continued viability, including but not limited to, capital deficiency, early warning, and any condition which, in the opinion of IIROC, could give rise to payments being made out of CIPF, including any condition which, alone or together with other conditions, could, if appropriate corrective action is not taken, reasonably be expected to:

(i) inhibit the member from promptly completing securities transactions, promptly segregating clients' securities as required or promptly discharging its responsibilities to clients, other members, or creditors;

result in material financial loss to the member or its clients; or

result in material misstatement of the member's financial statements;

any action taken by IIROC with respect to a member in financial difficulty;

any terms and conditions imposed, varied or removed by IIROC relating to a member;

any enforcement agreement and undertaking entered into, varied or rescinded at IIROC's request relating to a member.

#### **4. Quarterly Reporting**

IIROC will file on a quarterly basis with the Commission a report pertaining to IIROC's regulatory operations promptly after the report is reviewed or approved by IIROC's Board, board committees, or senior management, as the case may be, containing at a minimum the following information and documents:

a. a summary of ongoing initiatives, policy changes, and emerging or key issues that arose in the previous quarter for each of IIROC's regulatory operations;

b. a summary of all compliance examinations in progress or completed during the previous quarter, and all compliance examinations scheduled to be commenced in the upcoming quarter by IIROC office and department, including information on repeat or significant deficiencies;

c. a summary of any terms and conditions imposed, varied or removed relating to Approved Persons during the previous quarter;

a summary of all discretionary exemptions granted to individuals, members, and marketplace participants during the previous quarter;

summary statistics for the previous quarter regarding all client complaints, and complaints received from other sources including, but not limited to, any other securities regulatory authority;

summary statistics by IIROC office for the previous quarter regarding the caseload for each of case assessment, trading review and analysis, market surveillance, investigations and prosecutions, separated between Member and Marketplace Regulation cases, including the length of time the files have been open;

a summary of enforcement files that were referred to any of the Recognizing Regulators during the previous quarter; and

IIROC's regulatory staff complement, by function, and details of any material changes or reductions in regulatory staffing, by function, during the previous quarter.

## **5. Annual Reporting**

IIROC will file on an annual basis with the Commission a report pertaining to IIROC's regulatory operations promptly after the report is reviewed or approved by IIROC's Board, board committees, or senior management, as the case may be, containing at a minimum the following documents:

a. the self-assessment referred to in term and condition 7(h) of Appendix A to this Recognition Order. The self-assessment must contain information as specified by Commission staff from time to time and include the following information:

- (i) an assessment of how IIROC is meeting its regulatory mandate, including an assessment against the recognition criteria in Schedule 1 to the Recognition Order and the terms and conditions in Appendix A to the Recognition Order;
- (ii) an assessment against its strategic plan;
- (iii) a description of trends seen as a result of compliance reviews, investigations and prosecutions conducted, and complaints received, including IIROC's plan to deal with any issues;
- (iv) whether IIROC is meeting its benchmarks, and reasons for any benchmarks not being met;
- (v) a description and update on significant projects undertaken by IIROC; and
- (vi) a description of issues raised by any of the Recognizing Regulators, external auditors or internal audit, which are being tracked by IIROC's senior management, together with a summary of the progress made on their resolution; and

certification by IIROC's Chief Executive Officer and General Counsel that IIROC is in compliance with the terms and conditions applicable to it in Appendix A to this Recognition Order.

## **6. Financial Reporting**

- a. IIROC will file with the Commission unaudited quarterly financial statements with notes within 60 days after the end of each financial quarter.
- b. IIROC will file with the Commission audited annual financial statements accompanied by the report of an independent auditor within 90 days after the end of each fiscal year.

## **7. Other Reporting**

- a. IIROC will provide the Commission on a timely basis with the following information and documents upon publication or completion of review and approval by IIROC's Board, board committees, or senior management, as the case may be:



(i) the results of any corporate governance review referred to in term and condition 5(a)(iii) of Appendix A to this Recognition Order;

material changes to the code of business ethics and conduct and the written policy about managing potential conflicts of interests of members of IIROC's Board;

changes in the members of IIROC's Board;

the financial budget for the current year, together with the underlying assumptions, that have been approved by IIROC's Board;

the independent review report referred to in term and condition 10(b) of Appendix A to this Recognition Order;

the results of benchmarking of surveillance systems and services referred to in term and condition 10(d) of Appendix A to this Recognition Order, together with a summary of the process undertaken and conclusions reached;

enterprise risk management reports, and any material changes to enterprise risk management methodology;

the internal audit charter, annual internal audit plan, and internal audit reports;

the annual report for the current year;

the compliance examination plan for the current year;

material changes to the compliance or enforcement processes or scope of work, including risk assessment models for:

(A) Financial and Operations Compliance;

(B) Business Conduct Compliance; and

(C) Trading Conduct Compliance.

IIROC will provide the Commission with reasonable prior notice of any document that it intends to publish or issue to the public or to any class of members which, in the opinion of IIROC, could have a significant impact on:

- (i) its members and others subject to its jurisdiction; or
- (ii) the capital markets generally.

IIROC will, upon request, provide the Commission with the following information and documents as soon as practicable:

- (i) information concerning closed investigations or prosecutions which did not lead to disciplinary or settlement proceedings including the final investigation report and recommendation memorandum; and
- (ii) information concerning enforcement matters that resulted in disciplinary or settlement proceedings including the final penalty memorandum.