



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

P.O. Box 55, 19th Floor
20 Queen Street West
Toronto ON M5H 3S8

CP 55, 19^e étage
20, rue queen ouest
Toronto ON M5H 3S8

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

AND

**IN THE MATTER OF
THE INVESTMENT DEALERS ASSOCIATION OF CANADA**

VARIATION AND RESTATEMENT

(Subsections 21.1(1) and 144(1) of the Act)

The Ontario Securities Commission (the Commission) issued an order on October 27, 1995 recognizing the Investment Dealers Association of Canada (IDA) as a self-regulatory organization pursuant to section 21.1 of the Act (Previous Order);

Effective June 1, 2008, the IDA will combine its operations (the Combination) with Market Regulation Services Inc. (RS) to become the Investment Industry Regulatory Organization of Canada (IIROC);

IIROC will be a self-regulatory organization recognized by the British Columbia Securities Commission, the Alberta Securities Commission, the Saskatchewan Financial Services Commission, the Manitoba Securities Commission, the Ontario Securities Commission, the Autorité des marchés financiers, the Financial Services Regulation Division, Department of Government Services, Consumer & Commercial Affairs Branch (Newfoundland and Labrador), Nova Scotia Securities Commission, the New Brunswick Securities Commission and the Securities Office, Consumer, Corporate and Insurance Securities Division, Office of Attorney General (Prince Edward Island);

The IDA has applied to the Commission to vary and restate the Previous Order in order to reflect that, subsequent to the Combination, the IDA will continue to operate as a self-regulatory organization for a period of time to perform limited complaint handling, investigation and enforcement functions;

The Commission has determined that it is not prejudicial to the public interest to issue an order that varies and restates the Previous Order to reflect the more limited functions of the IDA subsequent to the Combination;

It is ordered, pursuant to subsection 144(1) of the Act, that the Previous Order be varied and restated as follows, without prejudice to the effectiveness of any lawful exercise of authority under the Previous Order prior to the date of this variation and restatement:

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

AND

**IN THE MATTER OF
THE INVESTMENT DEALERS ASSOCIATION OF CANADA**

**RECOGNITION ORDER
(Section 21.1)**

On October 27, 1995, the Commission recognized the Investment Dealers Association of Canada (IDA) as a self-regulatory organization;

The IDA and Market Regulation Services Inc. have combined (the Combination) their operations into the Investment Industry Regulatory Organization of Canada (IIROC), to be effective on June 1, 2008 (the Effective Date);

Subsequent to the Combination, for complaint handling, investigations and disciplinary actions, the IDA will continue to regulate and maintain its authority over persons subject to its authority prior to the Effective Date (collectively, Persons) for conduct occurring prior to the Effective Date, for up to five years following the Effective Date.

The IDA and IIROC have entered into an agreement (the Agreement) where the IDA has retained IIROC as its agent to perform complaint handling, investigation and enforcement functions on behalf of the IDA for the conduct of Persons occurring prior to the Effective Date, and to provide all administrative services in connection with these functions and the continuance of the IDA.

On April 23, 2008, the board of directors of the IDA adopted amendments to its by-law to be effective immediately prior to the Effective Date (IDA By-law Amendments) to reflect the fact that the governance and administration of the IDA in its continued form will be by a board of directors that will be the same as the board of directors of IIROC and to make other consequential amendments following from the creation of IIROC.

The IDA has made the following representations:

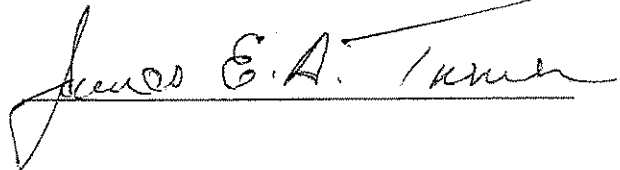
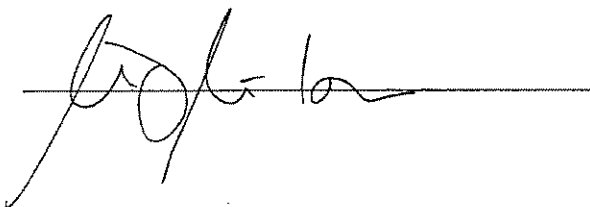
1. The IDA will, among other things:
 - (i) maintain its existence and recognition as necessary to ensure its continuing authority over Persons and their conduct occurring prior to the Effective Date;
 - (ii) provide confirmation and further assurances to third parties, including tribunals and appeal bodies, of its continuing authority over Persons and their conduct occurring prior to the Effective Date;

- (iii) subject to applicable law, provide to IIROC all relevant information in its possession that it receives from third parties in connection with the conduct of Persons occurring prior to the Effective Date;
 - (iv) to the extent required for the handling of complaints regarding or the investigation of the conduct of Persons occurring prior to the Effective Date, request information from third parties under information-sharing arrangements to which the IDA is a party; and
 - (v) perform all further acts and provide all further assurances necessary to maintain and confirm its continuing authority over Persons and their conduct occurring prior to the Effective Date.
2. Under the Agreement, IIROC will, among other things:
- (i) carry out on the IDA's behalf all complaint handling, investigative and enforcement activities relating to the conduct of Persons occurring prior to the Effective Date;
 - (ii) maintain sufficient personnel, technological and other resources to perform IIROC's obligations under the Agreement in a timely and diligent manner;
 - (iii) comply with, or facilitate the IDA's compliance with, the terms of any information-sharing agreements where the IDA receives information relating to the conduct of Persons occurring prior to the Effective Date; and
 - (iv) provide all funding required for the performance of activities of the IDA relating to the conduct of Persons occurring prior to the Effective Date.
3. All hearing committees and hearing panels for the purposes of any proceedings by the IDA will be constituted in accordance with IIROC Transition Rule No. 1 and Schedule C-1 *Hearing Committees and Hearing Panels Rule*.

Based on the representations and application, including the IDA By-law Amendments, made by the IDA to the Commission, the Commission is satisfied that continuing to recognize the IDA would not be prejudicial to the public interest;

The Commission hereby amends the IDA's recognition as a self-regulatory organization so that the recognition pursuant to section 21.1 continues with respect to the IDA, subject to the terms and conditions set out in Schedule A.

Dated October 27, 1995, as amended on MAY 16th, 2008, effective June 1, 2008.



SCHEDULE A

TERMS AND CONDITIONS

1. CORPORATE GOVERNANCE

The IDA must have the same board of directors as IIROC.

2. CAPACITY TO PERFORM REGULATORY FUNCTIONS

- (a) The IDA must enter into the Agreement with IIROC under which IIROC must act as the IDA's agent to perform regulation services, including complaint handling, investigation and enforcement related to the conduct of persons subject to its authority occurring prior to the Effective Date and all administrative services in connection therewith and the continuance of the IDA.
- (b) Prior Commission approval is required for any changes to the Agreement.

3. INFORMATION SHARING

The IDA or its agents must share information and must otherwise co-operate with the Commission and its staff, other Canadian securities regulatory authorities, exchanges, other regulation services providers, other recognized self-regulatory organizations, clearing agencies, and investor protection or compensation funds.

4. ADDITIONAL INFORMATION & COMPLIANCE WITH OVERSIGHT

The IDA or its agents must provide the Commission any additional information the Commission may require from time to time.

5. USE OF FINES AND SETTLEMENTS

All fines collected by the IDA, or by IIROC on behalf of the IDA, and all payments made under settlement agreements entered into with the IDA, or with IIROC on behalf of the IDA, must be used in accordance with the terms and conditions set out in the IIROC recognition order effective June 1, 2008, as amended from time to time.



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**IN THE MATTER OF
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AND

**IN THE MATTER OF
MARKET REGULATION SERVICES INC.**

VARIATION AND RESTATEMENT

(Subsections 21.1(1) and 144(1) of the Act)

The Ontario Securities Commission (the Commission) issued an order on January 29, 2002 recognizing Market Regulation Services Inc. (RS) as a self-regulatory organization pursuant to section 21.1 of the Act (Previous Order);

Effective June 1, 2008, RS will combine its operations (the Combination) with the Investment Dealers Association of Canada (IDA) to become the Investment Industry Regulatory Organization of Canada (IIROC);

IIROC will be a self-regulatory organization recognized by the British Columbia Securities Commission, the Alberta Securities Commission, the Saskatchewan Financial Services Commission, the Manitoba Securities Commission, the Ontario Securities Commission, the Autorité des marchés financiers, the Financial Services Regulation Division, Department of Government Services, Consumer & Commercial Affairs Branch (Newfoundland and Labrador), Nova Scotia Securities Commission, the New Brunswick Securities Commission and the Securities Office, Consumer, Corporate and Insurance Services Division, Office of the Attorney General (Prince Edward Island);

RS has applied to the Commission to vary and restate the Previous Order in order to reflect that, subsequent to the Combination, RS will continue to operate as a self-regulatory organization for a period of time to perform limited complaint handling, investigation and enforcement functions;

The Commission has determined that it is not prejudicial to the public interest to issue an order that varies and restates the Previous Order to reflect the more limited functions of RS subsequent to the Combination;

It is ordered, pursuant to subsection 144(1) of the Act, that the Previous Order be varied and restated as follows, without prejudice to the effectiveness of any lawful exercise of authority under the Previous Order prior to the date of this variation and restatement:

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

AND

**IN THE MATTER OF
MARKET REGULATION SERVICES INC.**

**RECOGNITION ORDER
(Section 21.1)**

On January 29, 2002, the Commission recognized Market Regulation Services Inc. (RS) as a self-regulatory organization;

RS is a regulation services provider under National Instrument 21-101 *Marketplace Operation Rule* and National Instrument 23-101 *Trading Rules* (together the ATS Rules) and regulates its members and marketplace participants pursuant to the Universal Market Integrity Rules (UMIR);

RS and the Investment Dealers Association of Canada have combined (the Combination) their operations into the Investment Industry Regulatory Organization of Canada (IIROC), to be effective on June 1, 2008 (the Effective Date);

Subsequent to the Combination, for complaint handling, investigations and disciplinary actions, RS will continue to regulate and maintain its authority over persons subject to its authority prior to the Effective Date (collectively, Persons) for conduct occurring prior to the Effective Date, for up to five years following the Effective Date.

RS and IIROC have entered into an agreement (the Agreement) where RS has retained IIROC as its agent to perform complaint handling, investigation and enforcement functions on behalf of RS for the conduct of Persons occurring prior to the Effective Date, and to provide all administrative services in connection with these functions and the continuance of RS.

On April 22, 2008, the board of directors of RS adopted amendments to its by-law to be effective immediately prior to the Effective Date (RS By-law Amendments) to reflect the fact that the governance and administration of RS in its continued form will be by a board of directors that will be the same as the board of directors of IIROC and to make other consequential amendments following from the creation of IIROC.

RS has made the following representations:

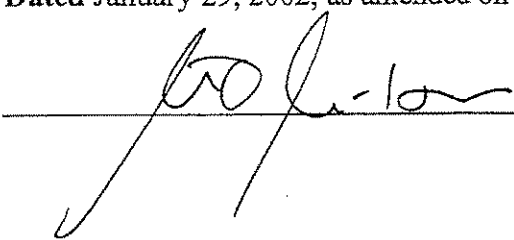
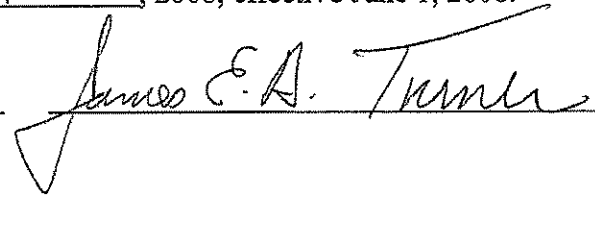
1. RS will, among other things:
 - (i) maintain its existence and recognition as necessary to ensure its continuing authority over Persons and their conduct occurring prior to the Effective Date;

- (ii) provide confirmation and further assurances to third parties, including tribunals and appeal bodies, of its continuing authority over Persons and their conduct occurring prior to the Effective Date;
 - (iii) subject to applicable law, provide to IIROC all relevant information in its possession that it receives from third parties in connection with the conduct of Persons occurring prior to the Effective Date;
 - (iv) to the extent required for the handling of complaints regarding or the investigation of the conduct of Persons occurring prior to the Effective Date, request information from third parties under information-sharing arrangements to which RS is a party; and
 - (v) perform all further acts and provide all further assurances necessary to maintain and confirm its continuing authority over Persons and their conduct occurring prior to the Effective Date.
2. Under the Agreement, IIROC will, among other things:
- (i) carry out on RS's behalf all complaint handling, investigative and enforcement activities relating to the conduct of Persons occurring prior to the Effective Date;
 - (ii) maintain sufficient personnel, technological and other resources to perform IIROC's obligations under the Agreement in a timely and diligent manner;
 - (iii) comply with, or facilitate RS's compliance with, the terms of any information-sharing agreements where RS receives information relating to the conduct of Persons occurring prior to the Effective Date; and
 - (iv) provide all funding required for the performance of activities of RS relating to the conduct of Persons occurring prior to the Effective Date.
3. All hearing committees and hearing panels for the purposes of any proceedings by RS will be constituted in accordance with IIROC Transition Rule No. 1 and Schedule C-1 *Hearing Committees and Hearing Panels Rule*.

Based on the representations and application, including the RS By-law Amendments, made by RS to the Commission, the Commission is satisfied that continuing to recognize RS would not be prejudicial to the public interest;

The Commission hereby amends RS's recognition as a self-regulatory organization so that the recognition pursuant to section 21.1 continues with respect to RS, subject to the terms and conditions set out in Schedule A.

Dated January 29, 2002, as amended on MAY 16th, 2008, effective June 1, 2008.

SCHEDULE A

TERMS AND CONDITIONS

1. CORPORATE GOVERNANCE

RS must have the same board of directors as IIROC.

2. CAPACITY TO PERFORM REGULATORY FUNCTIONS

(a) RS must enter into the Agreement with IIROC under which IIROC must act as RS's agent to perform regulation services, including complaint handling, investigation and enforcement related to the conduct of persons subject to its authority occurring prior to the Effective Date and all administrative services in connection therewith and the continuance of RS.

(b) Prior Commission approval is required for any changes to the Agreement.

3. INFORMATION SHARING

RS or its agents must share information and must otherwise co-operate with the Commission and its staff, other Canadian securities regulatory authorities, exchanges, other regulation services providers, other recognized self-regulatory organizations, clearing agencies, and investor protection or compensation funds.

4. ADDITIONAL INFORMATION & COMPLIANCE WITH OVERSIGHT

RS or its agents must provide the Commission any additional information the Commission may require from time to time.

5. USE OF FINES AND SETTLEMENTS

All fines collected by RS, or by IIROC on behalf of RS, and all payments made under settlement agreements entered into with RS, or with IIROC on behalf of RS, must be used in accordance with the terms and conditions set out in the IIROC recognition order effective June 1, 2008, as amended from time to time.



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**IN THE MATTER OF
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AS AMENDED (the ACT)**

AND

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

AND

**IN THE MATTER OF
INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)**

**RECOGNITION ORDER
(Subsection 21.1(1) of the Act and Subsection 16(1) of the CFA)**

The Investment Dealers Association of Canada (the IDA) has been recognized by the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission, Nova Scotia Securities Commission, Ontario Securities Commission, Saskatchewan Financial Services Commission, the Financial Services Regulation Division, Department of Government Services, Consumer & Commercial Affairs Branch (Newfoundland and Labrador) and the Autorité des marchés financiers (Québec), and has applied to the New Brunswick Securities Commission for recognition (together with the Securities Office, Consumer, Corporate and Insurance Services Division, Office of the Attorney General (Prince Edward Island), the Recognizing Regulators) as a self-regulatory organization or self-regulatory body pursuant to applicable legislation.

Market Regulation Services Inc. (RS) has been recognized by the Autorité des marchés financiers (Québec) and the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission and Ontario Securities Commission as a self-regulatory organization or self-regulatory body pursuant to applicable securities legislation.

The IDA and RS have agreed to combine their operations into IIROC.

IIROC will, among other things:

- a. regulate investment dealers, including alternative trading systems (ATSS) and futures commission merchants (Dealer Members);
- b. if retained by an ATS pursuant to National Instrument 23-101 *Trading Rules*, regulate the ATS as a Marketplace Member (defined below) and the subscribers of the ATS;
- c. establish, administer and monitor its rules, policies and other similar instruments (Rules);
- d. enforce compliance with its Rules by Dealer Members and others subject to its jurisdiction;
- e. provide services to exchanges and quotation and trade reporting systems (QTRSs) (together with ATSS, Marketplace Members) that choose to retain it as a regulation services provider, as that term is defined under National Instrument 21-101 *Marketplace Operation*;
- f. if retained by an exchange or QTRS, administer, monitor and/or enforce rules pursuant to a regulation services agreement between IIROC and that exchange or QTRS (RSA);
- g. conduct certain functions delegated to it by Recognizing Regulators, including registration functions; and
- h. perform investigation and enforcement functions on behalf of the IDA and RS for as long as each of the IDA and RS continues to be recognized by the Commission as a self-regulatory organization or a self-regulatory body.

On April 30, 2008, the Board of IIROC adopted the rules and policies of RS and the regulatory By-laws, Regulations, Forms and Policies of the IDA that were in force and effect at that time, subject to incidental conforming changes made to ensure consistency, and the Hearing Committees and Hearing Panels Rule as the Rules.

On April 30, 2008, the Board of IIROC adopted the market integrity notices issued by RS and all regulatory notices, bulletins, directives and guidance provided by the IDA that were in effect at that time.

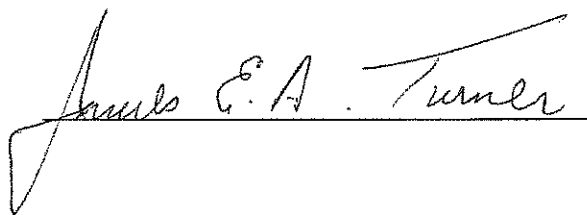
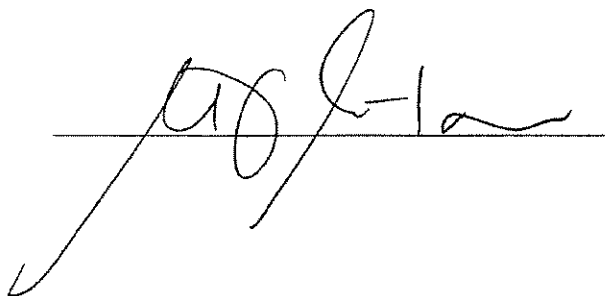
IIROC has applied to the Ontario Securities Commission (Commission) and the other Recognizing Regulators for recognition as a self-regulatory organization pursuant to subsection 21.1(1) of the Act and subsection 16(1) of the CFA.

Based on the application filed on behalf of IIROC with the Recognizing Regulators with such changes as have been agreed to by the Recognizing Regulators, which includes the Rules, and subject to the representations and undertakings made by IIROC, the Commission is satisfied that recognizing IIROC will not be prejudicial to the public interest.

The Commission recognizes IIROC as a self-regulatory organization pursuant to subsection

21.1(1) of the Act and subsection 16(1) of the CFA on the terms and conditions set out in the appendix to this recognition order and the applicable provisions of the Memorandum of Understanding between the Recognizing Regulators, as amended from time to time (MOU).

Dated this 16th of May, 2008, effective June 1, 2008.



APPENDIX A

TERMS AND CONDITIONS

1. Recognition Criteria

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

2. Notice and/or Approval of Changes

- a. IIROC must promptly file in writing with Commission staff any material change to the information set out in the application letter dated December 21, 2007.
- b. 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) letters patent of IIROC, and any supplementary letters patent; 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.
- c. 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.
- d. IIROC must not, without providing the Commission at least twelve months prior written notice and complying with any terms and conditions the Commission may impose in the public interest, complete 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.
- e. IIROC will:
 - (i) provide the Commission with three months prior written notice of any intended material change to its agreement with an information technology service provider regarding its critical technology systems; and
 - (ii) not terminate its agreement with an information technology service provider providing critical technology systems without providing the Commission prior written notice and complying with any terms and conditions the Commission may impose in the public interest.
- f. IIROC will 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 A of the MOU, as amended from time to time.
- g. IIROC must advise the Commission in writing immediately upon being notified by any of the Recognizing Regulators that IIROC is not in compliance with one or more of the terms and conditions of recognition of IIROC in any jurisdiction or with the reporting requirements set out in the MOU.

3. 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,
 - (A) within two years after the date of recognition and periodically thereafter, or
 - (B) 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.

- b. IIROC must report to Commission staff in writing the results of the corporate governance review referred to in subparagraph (a)(iii) upon completion.
- c. The Code of Business Ethics and Conduct and the written policy about managing potential conflicts of interests of members of IIROC's Board must be filed with the Recognizing Regulators within one year after the date of this Recognition Order.

4. Fees

- a. IIROC must develop an integrated fee model and submit it for approval with the Commission within two years of the date of the recognition order.
- b. IIROC must report in writing on a quarterly basis for the first two years of operations on the status of the development of the fee model.

5. 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.

6. Financial Viability

- a. IIROC must operate on a not-for-profit basis.
- b. IIROC will immediately report to Commission staff if it cannot meet its expected expenses for the next quarter. In addition, IIROC must provide Commission staff with an action plan detailing the steps to be taken to remedy its financial condition.

7. Integration of Functions

- a. IIROC must report in writing within six months of the date of the recognition order its plan and timelines for the integration of functions relating to policy, surveillance, compliance, investigations, enforcement and membership.
- b. IIROC must report in writing on a quarterly basis for the first two years of operations on the status of the integration of its functions.

8. 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 ATSS, and others subject to its jurisdiction. In addition, IIROC will provide notice to the Commission of any violations of securities legislation of which it becomes aware.
- 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/body.
- f. IIROC must publish concurrently in English and French each document issued to the public at large or generally to any class of members and must provide the document to Commission staff immediately upon publication.
- 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.

9. 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 non-recurring capital expenditures that are necessary to address emerging regulatory issues resulting from changing market conditions and are directly related to protecting investors and the integrity of the capital markets;
 - (ii) for the education of securities market participants and members of the public about or research into investing, financial matters or the operation or regulation of securities 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); or
- b. for reasonable costs associated with the administration of IIROC's hearing panels.

10. Disciplinary Matters

- a. Subject to paragraph (b), IIROC must
 - (i) promptly notify the Commission, 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 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.

11. Capacity and Integrity of Systems

- a. IIROC must
 - (i) ensure that each of IIROC's critical systems, including its technology systems, has
 - (A) appropriate internal controls to ensure integrity and security of information; and
 - (B) has 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 promptly report to the Commission:
 - (i) any material failures in the controls described in paragraphs (a)(i) and (ii)

above; and

- (ii) any outage in IIROC's critical technology systems or backup systems, and provide a description of the actions taken or to be taken to rectify the situation.
- c. IIROC will on a reasonably frequent basis, and in any event, at least annually:
- (i) make reasonable current and future capacity estimates for its critical systems;
 - (ii) conduct capacity stress tests to determine the ability of its critical 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.
- d. IIROC must cause to be performed an independent review, in accordance with established audit procedures and standards, of its controls for ensuring that it is in compliance with paragraph (c) above, and conduct a review by its Board of the report containing the recommendations and conclusions of the independent review. This term and condition 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 paragraph (c) above.
- e. Upon completion of the Board review, IIROC must provide the Commission with a copy of the report prepared under paragraph (d).
- f. IIROC shall periodically benchmark surveillance systems and services provided by its information technology providers against comparable systems and services available from other third party technology providers and provide the Commissions with a report summarizing the process undertaken and the conclusions reached.

12. Ongoing Reporting Requirements

- a. IIROC must provide the Commission with all information required in Schedule 2 of this Recognition Order.
- b. IIROC must provide Commission staff within 30 days of the commencement of each fiscal year with a copy of its financial budget for that year, together with the underlying assumptions, that has been approved by its Board.
- c. IIROC must file annual audited financial statements with Commission staff, accompanied by the report of an independent auditor, within 90 days after the end of each fiscal year.
- d. IIROC must file with Commission staff quarterly financial statements for each of the first three financial quarters within 60 days after the end of each financial quarter.
- e. IIROC must file its annual report with Commission staff upon completion.
- f. IIROC must annually self-assess IIROC's performance of its regulatory responsibilities and report thereon to the Board and the Commission staff, together with any recommendations for improvements. The annual 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 and the terms and conditions of the Recognition Order;
 - (ii) an assessment against its strategic plan;
 - (iii) a description of trends seen as a result of compliance reviews conducted and complaints received and IIROC's plan to deal with any issues;
 - (iv) whether IIROC is meeting its benchmarks and if not, why not; and
 - (v) a description and update on significant projects undertaken by IIROC.IIROC must file the self-assessment with the Commission within 90 days of its fiscal year-end.
- g. IIROC must give the Commission staff notice as soon as practicable of new directors.
- h. IIROC must provide to the Commission, in addition to the information specifically required in this Recognition Order and the MOU, any information the

Commission may reasonably require from time to time.

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. 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.

6. Financial Viability

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

7. 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.

8. Capacity and Integrity of Systems

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

9. 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.

10. Disciplinary Matters

The process for discipline must be fair and transparent.

11. Information Sharing and Regulatory Cooperation

To assist other regulatory authorities in regulatory matters, 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.

12. **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

IIROC will provide the information and reports outlined in this Schedule to the Recognizing Regulators of all jurisdictions in which a Member that is the subject of a report or notification is registered, unless otherwise specified.

1. General

- a. Prompt notice of any material violations of securities legislation of which IIROC becomes aware in the ordinary course operation of its business.
- b. Prompt notice of actual or apparent misconduct or non-compliance by Members and their Approved Persons or Participants and others where investors, clients, creditors, Members, the Canadian Investor Protection Fund (CIPF) or IIROC may reasonably be expected to suffer serious damage as a consequence thereof, including but not limited to:
 - (i) where the solvency of a Member is at risk,
 - (ii) where fraud is present, or
 - (iii) where serious deficiencies in supervision or internal controls exist.

IIROC will include the party's name, the misconduct or deficiency, and its proposed response to ensure that the situations are resolved.

2. Financial Compliance

- a. Prompt notification of situations that would reasonably be expected to raise concerns about a Member's continued viability, including but not limited to, capital deficiency 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 and its clients, or
 - (iii) result in material misstatement of the Member's financial statements.

IIROC will include the Member's name, the circumstances that gave rise to the

situation, and its proposed response to ensure the identified situations are resolved.

- b. Prompt notice following the taking of any action with respect to a Member in financial difficulty, including a description of the circumstances of the failure or the cause of the financial difficulty, and a summary of the actions taken.
- c. At the beginning of each calendar year, an examination plan summarizing the scheduled financial compliance examinations for the upcoming year, set out on a quarterly basis and by IROC office. The examination plan should explain the selection method used in determining the Members that are subject to an examination.
- d. On a quarterly basis, notification of any material changes to Financial Compliance's processes or scope of its work, including material changes to its risk assessment model. Such notification may be provided verbally at the quarterly conference calls of staff of IROC and the Recognizing Regulators.

3. Business Conduct Compliance

- a. At the beginning of each calendar year, an examination plan summarizing the scheduled business conduct compliance examinations for the upcoming year, set out on a quarterly basis. The examination plan should explain the selection method used in determining the Member's office(s) that are subject to an examination and the resources that will be dedicated to reviews of branch offices. The examination plan should also include for head office examinations the name of the Dealer Member and the address, and for branch office examinations that IROC reasonably expects to complete the name of the Dealer Member and the address.
- b. On a quarterly basis, a comparison of IROC's Dealer Member business conduct compliance examination results to the examination plan by IROC office. This comparison will include an explanation of any variances of actual results compared to the examination plan, and an action plan to ensure that the variances are resolved.
- c. On a quarterly basis, a progress report on all examinations that were in progress as of or started since the last report by each IROC office. This report will include:
 - (i) the name of the Dealer Member,
 - (ii) whether the examination involved a head office or branch,
 - (iii) the start and expected completion dates of the field work,

- (iv) the status of the examination,
 - (v) whether a report has been issued and, if so, the issue date,
 - (vi) a summary of the material deficiencies noted during the examination,
 - (vii) identification of any repeated deficiencies, and
 - (viii) the follow up actions planned by IIROC to ensure that the identified problems will be resolved.
- d. On a quarterly basis, notification of any material changes to Business Conduct Compliance's processes or scope of its work, including material changes to its risk assessment model. Such notification may be provided verbally at the quarterly conference calls of staff of IIROC and the Recognizing Regulators.

4. Trade Desk Review

- a. At the beginning of each calendar year, a plan summarizing the scheduled trade desk reviews for the upcoming year, set out on a quarterly basis, including the name of the Dealer Member. The plan should explain the selection method used in determining the Members that are subject to a trade desk review.
- b. On a quarterly basis, a comparison of IIROC's trade desk review results to the plan by IIROC office. This comparison will include an explanation of any variances of actual results compared to the plan, and an action plan to ensure that the variances are resolved.
- c. On a quarterly basis, a progress report on all trade desk reviews that were in progress as of or started since the last report by each IIROC office. This report will include:
 - (i) the name of the Dealer Member,
 - (ii) the start and expected completion dates of the field work,
 - (iii) the status of the review,
 - (iv) whether a report has been issued and, if so, the issue date,
 - (v) a summary of the material deficiencies noted during the review,
 - (vi) identification of any repeated deficiencies, and
 - (vii) the follow up actions planned by IIROC to ensure that the identified problems will be resolved.

- d. On a quarterly basis, notification of any material changes to trade desk review processes or scope. Such notification may be provided orally at the quarterly conference calls of staff of IIROC and the Recognizing Regulators.

5. Membership

- a. Immediate notice of the admission of a new Member. In each case, IIROC will include the Member's name and any terms and conditions that are imposed on the Member.
- b. Immediate notice of Members whose membership will be suspended or terminated. In each case, IIROC will include:
 - (i) The Member's name, and
 - (ii) The reasons for the proposed suspension or termination.
- c. Immediate notice of receipt from a Member its intention to resign.
- d. The notice required by this section 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 and termination of membership and immediately after receipt of a notice of intention to resign, as the case maybe.

6. Registration

- a. A quarterly report summarizing any terms and conditions imposed on Approved Persons, containing:
 - (i) the name of the Dealer Member and Approved Person on whom the terms and conditions were imposed,
 - (ii) the date terms and conditions were imposed,
 - (iii) the terms and conditions, and
 - (iv) a description of the reasons for the decision to impose terms and conditions.
- b. A quarterly report summarizing all exemptions granted to individuals for proficiency requirements and full-time employment requirements under IIROC Rules and applicable securities legislation, and the reasons for granting the exemptions. This report should not include non-discretionary exemptions set out in IIROC Rules that were previously approved by the Recognizing Regulators.

7. Marketplace Regulation Exemptions

A quarterly report summarizing all exemptions granted during the period to marketplace participants pursuant to IIROC's Marketplace Regulation Rules, containing the information set out below:

- a. the name of the marketplace participant,
- b. type of exemption,
- c. date of the exemption, and
- d. a description of IIROC staff's reason for the decision to approve the exemption.

8. Investigations and Enforcement

a. Ad Hoc Reporting

- (i) Information concerning all investigations which led to disciplinary or settlement proceedings, to be sent promptly after the disposition of the disciplinary or settlement proceedings and containing the following information:
 - (A) any discipline imposed,
 - (B) the terms of any settlement proposal accepted, and
 - (C) any written decisions and reasons;

b. Monthly Reporting

- (i) A summary of all new investigations by IIROC offices, which will:
 - (A) indicate the date an investigation started,
 - (B) indicate whether the investigation concerns primarily Member Regulation matters, Marketplace Regulation matters or has significant elements of both,
 - (C) include name of the complainant for complaints that resulted in investigations,
 - (D) indicate whether the file was referred by another department of IIROC and the name of the department,

- (E) identify:
 - a. for Member Regulation cases, the Dealer Member and relevant Approved Person(s), or
 - b. for Marketplace Regulation cases, the marketplace participant,
 - (F) summarize the misconduct alleged, and highlight any securities act violations of which IIROC becomes aware in the course of the investigation, and
 - (G) identify the name(s) of IIROC staff assigned to the investigation.
- (ii) A summary of all closed investigations which did not lead to disciplinary or settlement proceedings by IIROC offices, which will:
- (A) indicate the dates an investigation was started and closed,
 - (B) include detailed information concerning the investigation,
 - (C) identify:
 - a. for Member Regulation cases, the Dealer Member and relevant Approved Person(s), or
 - b. for Marketplace Regulation cases, the marketplace participant, and
 - (D) include a copy of the final investigation report and recommendations.
- c. *Quarterly Reporting*
- (i) A quarterly report summarizing client complaints based upon ComSet data, including:
 - (A) a graphical report setting out the number of open client complaints and the relative age of the client complaints as of each quarter and on an annual basis, and
 - (B) the relative age of closed client complaints, closed in the quarter and on an annualized basis.

- (ii) Summary statistics by IROC offices regarding the current caseload for each of complaints, investigations and prosecutions, separated between Member and Marketplace Regulation cases and within Marketplace Regulation cases, separately for each exchange, quotation and trade reporting system and alternative trading system, including:
 - (A) the number of files outstanding at the beginning and at the end of the period, by operating department,
 - (B) the number of new files opened during the period, by operating department,
 - (C) the number of files transferred between sections during the period, by operating department, and
 - (D) the number of files referred and closed during the period.
- (iii) An ageing report by IROC offices as at quarter end for files that remain open at the end of the quarter, which identifies the length of time a file has been open in each operating department.

d. Annual Reporting

- (i) A summary of all complaints and the disposition thereof, together with an analysis of any emerging problems or trends;
- (ii) A summary of all investigations and the disposition thereof, together with an analysis of any emerging problems or trends;
- (iii) A summary of all prosecutions and the disposition thereof, together with an analysis of any emerging problems or trends;
- (iv) an analysis of market surveillance files that includes a discussion of any emerging problems or trends;
- (v) enforcement-related policy changes;
- (vi) enforcement-related functional and administrative changes; and
- (vii) ongoing initiatives which are enforcement-related, but not case specific.



Ontario
Securities
Commission

Commission des
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**IN THE MATTER OF THE SECURITIES ACT, R.S.O. 1990, Chapter S.5, as amended
(the Act)**

AND

**IN THE MATTER OF
INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)**

**VARIATION OF DECISION
(Subsection 144(1) of the Act)**

Background

The Commission made a decision on June 29, 2005 under subsection 21.1(4) of the Act (the Original Decision) to require Market Regulation Services (RS):

- (A) to waive the requirement for a subscriber of an alternative trading system (ATS) to execute the RS confirmation and representation forms and the acknowledgments described in section 3.6 of the Regulation Services Agreements (RSA) if
- (i) the subscriber signs a release made and executed in favour of, and delivered to, RS in the form of the following:

RS, its directors, officers, employees, agents and any other person acting under its authority shall not be liable to the Subscriber or any of its Regulated Persons (as defined in the UMIR) for any loss, damage, cost, expense or other liability or claim arising from any act or omission, in good faith, in connection with RS's performance of services as a Regulation Services Provider (as defined in NI 21-101); or
 - (ii) the ATS has executed an indemnity that is consistent with the language in section 11.10 of UMIR and has taken steps, satisfactory to RS acting reasonably, to ensure that it will be able to satisfy the indemnity, and
- (B) to continue to monitor and enforce its rules and requirements against subscribers to an ATS with which it has agreed to act as the RSP and against their directors, officers and employees.

IIROC has applied to the Commission for an Order varying the Original Decision.

Representations

The Applicant has made the following representations.

1. On June 1, 2008, RS combined with the Investment Dealers Association of Canada (IDA) to become IIROC.
2. Like RS, IIROC is a regulation services provider (RSP) under National Instrument 21-101 *Marketplace Operation* and National Instrument 23-101 *Trading Rules* (the ATS Rules). It has been recognized by the British Columbia Securities Commission, the Alberta Securities Commission, the Saskatchewan Financial Services Commission, the Manitoba Securities Commission, the Ontario Securities Commission, the Autorité des marchés financiers, Newfoundland and Labrador, Securities Division, Department of Government Services and Lands, Nova Scotia Securities Commission and the New Brunswick Securities Commission.
3. Because of the combination with the IDA, IIROC has requested that the Commission vary the Original Decision to reflect its new name and the securities regulatory authorities that have recognized it as a self-regulatory organization or self-regulatory body.

Commission Decision

The Commission is satisfied that to do so would not be prejudicial to the public interest;

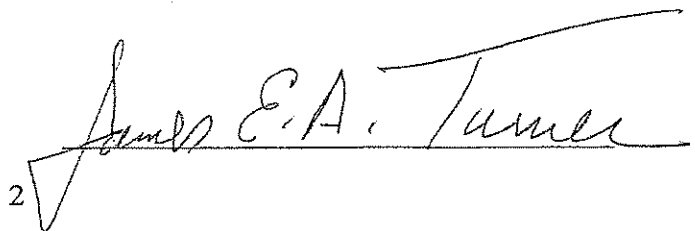
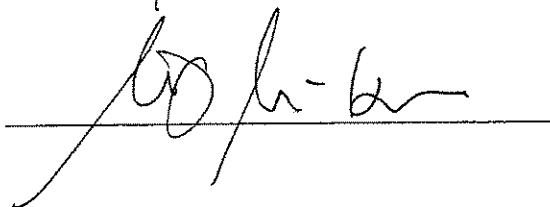
The Commission orders that the Original Decision be varied as follows:

1. Each reference to Market Regulation Services Inc. be deleted and replaced with a reference to Investment Industry Regulatory Organization of Canada;
2. Each reference to RS be deleted and replaced with a reference to IIROC;
3. Paragraph 3 be deleted and replaced by the following:

“IIROC is an RSP under the ATS Rules and has been recognized by the British Columbia Securities Commission, the Alberta Securities Commission, the Saskatchewan Financial Services Commission (Securities Division), the Manitoba Securities Commission, the Ontario Securities Commission, the Autorité des marchés financiers, Newfoundland and Labrador, Securities Division, Department of Government Services and Lands, Nova Scotia Securities Commission and the New Brunswick Securities Commission.”

4. Paragraphs 5 and 6 be deleted.

Dated this 16th day of May, 2008



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