

By-law 20 is repealed and replaced as follows:

BY-LAW 20

ASSOCIATION HEARING PROCESSES

PART 1 - DEFINITIONS

20.1 In this By-law:

"Applicant" means:

an individual or Firm that applies for approval or membership pursuant to Part 7 of this By-law or an Approved Person or Member that applies for an exemption pursuant to Part 8 of this By-law.

"Business days" means:

a day other than Saturday, Sunday or any officially recognized Federal statutory holiday or any officially recognized Provincial statutory holiday in the applicable District. In calculating the number of business days, the days on which the events happen are excluded.

"Calendar days" means:

all days in a calendar year. In calculating the number of calendar days, the days on which the events happen are excluded.

"Decision" means:

a determination, including reasons, arrived at after consideration of facts and/or law by a Decision-maker pursuant to this By-law. Decision includes rulings and orders.

"Decision-maker" means:

the person or body making the decision under the respective provision of By-law 20. The Decision-maker can be: Association Staff (20.18 Part 7 By-law 20, 20.24 Part 8 By-law 20); the District Council or a sub-committee of the District Council (20.18 and 20.20 Part 7 By-law 20, 20.24 and 20.25 Part 8 By-law 20); the Executive Committee of the Board of Directors; (20.21 Part 7 By-law 20), a Board Panel; (20.22 Part 7 By-law 20), a District Council Panel; (20.26 Part 8 By-law 20), a Hearing Panel; (20.13 Part 6 By-law 20); and an Appeal Panel; (20.51 Part 11 By-law 20).

"Disciplinary Hearing" means:

a hearing held by a Hearing Panel, under By-law 20.33 or By-law 20.34, that is not a settlement hearing, to determine whether the imposition of penalties against an Approved Person or Member is warranted for any of the reasons set out in By-law 20.33(1) or By-law 10.34(1).

"Former Judge" means:

an individual who has served as a judge in any provincial or federal court in Canada or an individual who is or has been qualified to practice law and has served as an adjudicator on an administrative tribunal in Canada.

"Monitor" means:

a Monitor appointed pursuant to By-law 20.46 to monitor the company's business and financial affairs and to act in furtherance of powers granted by a Hearing Panel.

"Panel" means:

a Hearing Panel (20.13 Part 6 By-law 20), a District Council Panel (20.26 Part 8 By-law 20), a Board Panel (20.22 Part 7 By-law 20) and an Appeal Panel (20.51 Part 11 By-law 20).

"Release of Decision" means:

when a decision made under this By-law is made available to the Respondent, Applicant, Approved Person or Member pursuant to the IDA Rules of Practice and Procedure.

"Respondent" means:

an Approved Person or Member who is the subject of a disciplinary hearing, settlement hearing, expedited hearing, or appeal hearing under By-law 20.

"Settlement Agreement" means:

an agreement reached by the Association and the Respondent whereby the parties agree to disciplinary charges, facts and penalty.

PART 2 - GENERAL AUTHORITY OF PANELS

20.2 Exercise Of Authority

(1) A Panel may make any determination, hold any hearing and make any decision, order, interim order or impose any terms required to implement such order, required or permitted under By-law 20 or under the IDA Rules of Practice and Procedure.

(2) A Panel is not bound by any legal or technical rules of evidence and may admit as evidence in a hearing, whether or not given or proven under oath or affirmation, anything that is relevant to the proceedings.

(3) A Panel may require presentation of evidence or testimony under oath or affirmation.

PART 3 - DECISION-MAKING AND EFFECTIVENESS OF DECISIONS

20.3 Decision-making

(1) For any decision made pursuant to By-law 20 where the Decision-maker consists of more than one individual, any action affirmed by a majority of persons that make up the Decision-maker, shall constitute the decision of the Decision-maker.

(2) Where a Panel is comprised of only two members pursuant to By-law 20.17, any action affirmed by both members shall constitute the decision of the Panel. Where an agreement is not reached, the matter shall be deemed dismissed as against the Respondent.

(3) All decisions of a Decision-maker pursuant to By-law 20, including dissent decisions, shall be in writing and shall contain reasons for the decision.

(4) Dissent decisions may be issued by a member of a Panel.

(5) Notwithstanding By-law 20.16(2), the other members of a Hearing Panel or Appeal Panel shall draft the decision where the Chair of the Panel dissents with the majority decision.

20.4 Territorial Application of Decisions

(1) Any decision made under this By-law shall have effect in all of the Districts, unless otherwise ordered by the Decision-maker or unless such extension or application of the decision is limited by law.

20.5 Effective Date of Decision

(1) Any decision made pursuant to By-law 20 shall become effective on the date that the decision is made, unless it provides otherwise.

(2) Notwithstanding subsection (1), a decision made pursuant to By-law 20.28 shall become effective as prescribed in By-law 20.29(3).

20.6 Effective Date of Penalties

(1) Suspensions, bars, expulsions, restrictions or other conditions or terms imposed on approval or Membership commence as of the effective date of the decision, unless otherwise determined by the Decision-maker.

(2) Any fine imposed on a Respondent shall be payable immediately when the decision becomes effective unless otherwise agreed by the parties.

PART 4 - CONTINUING JURISDICTION

20.7 Former Members and Approved Persons

(1) For the purposes of By-law 19 and By-law 20, any Member and any Approved Person shall remain subject to the jurisdiction of the Association for a period of five years from the date on which such Member or Approved Person ceased to be a Member or an Approved Person of the Association, subject to subsection (2).

(2) An enforcement hearing under Part 10 of this By-law may be brought against a former Approved Person who re-applies for approval under Part 7 of this By-law, notwithstanding expiry of the time period set out in subsection (1).

(3) An Approved Person whose approval is suspended or revoked or a Member who is expelled from membership or whose rights or privileges are suspended or terminated shall remain liable to the Association for all amounts owing to the Association.

PART 5 - HEARING COMMITTEE

20.8 Nominating Committee - Appointment of Hearing Committee Members

(1) Each District Council shall establish a Nominating Committee. The Nominating Committee shall be composed of the Chair of the District Council, the Vice-Chair of the District Council and one other member of the District Council as appointed by the District Council.

(2) The Nominating Committee shall nominate individuals to be members of the Hearing Committee of the respective District, in accordance with By-laws 20.9 to 20.12, and present these nominations for approval by the respective District Council.

(3) The District Council must approve the appointment of members to the Hearing Committee by vote pursuant to By-law 11.

20.9 Appointment of Industry Members to Hearing Committees

(1) The Nominating Committee shall nominate persons for appointment as industry members of the Hearing Committee.

(2) The Nominating Committee shall consider for nomination as an industry member of the Hearing Committee any District Council member, other than a member of the Nominating Committee, or any other persons who are:

- (a) resident in the District; and
- (b) an officer, partner, director or employee of a Member; or
- (c) a retired officer, partner, director or employee of a Member.

(3) The Nominating Committee shall review the suitability, fitness and qualifications of each person nominated as an industry member to the Hearing Committee.

(4) The District Councils of Alberta, Ontario, the Pacific and Quebec shall each appoint a minimum of seven industry members to their respective Hearing Committees.

(5) The District Councils of Manitoba, New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island and Saskatchewan shall each appoint a minimum of four industry members to their respective Hearing Committees.

20.10 Appointment of Public Members to Hearing Committees

(1) The Nominating Committee shall nominate public members of the Hearing Committee.

(2) The Nominating Committee shall consider for nomination as a public member only those persons who are:

- (a) resident in the District; and

(b) currently or have been qualified to practice law in any Canadian jurisdiction.

(3) No person shall be eligible to be appointed as a public member or be permitted to continue to serve his or her term of appointment as a public member if he or she represents any parties to hearings under By-law 20 during the course of his or her appointment to a Hearing Committee.

(4) The Nominating Committee shall review the suitability, fitness and qualifications of each person nominated as a public member of the Hearing Committee.

(5) The District Councils of Alberta, Ontario, the Pacific and Quebec shall each appoint a minimum of three public members, one of which shall be a former judge, to their respective Hearing Committees.

(6) The District Councils of Manitoba, New Brunswick, Nova Scotia and Saskatchewan shall each appoint a minimum of two public members, one of which shall be a former judge, to their respective Hearing Committees.

(7) The District Councils of Newfoundland and Prince Edward Island shall each appoint a minimum of one public member to sit on their respective Hearing Committees, between the Hearing Committees of these two Districts, there shall be one former judge.

20.11 Chair of Hearing Committee

(1) The Nominating Committee of each District shall nominate a public member to serve as Chair of the Hearing Committee.

(2) The District Council must approve the appointment of a Chair of the Hearing Committee by a vote pursuant to By-law 11.

(3) The Chair of the Hearing Committee shall play an advisory role with respect to any legal, administrative or procedural issues raised by Hearing Committee Members or any issues regarding selection of Hearing Panel members raised by the National Hearing Coordinator.

20.12 Appointment To and Removal From Hearing Committees

(1) Each person appointed to a Hearing Committee shall serve for a term of one year from the date of his or her appointment.

(2) If a Panel member is seized with a hearing at the expiration of their term of appointment, the term of that Panel member shall be automatically extended until a written decision is rendered in the matter.

(3) Upon expiration of the one-year term, members of the Hearing Committee may be re-appointed by District Council to serve on the Hearing Committee, pursuant to By-law 20.8.

(4) The District Council may remove Hearing Committee members from the Hearing Committee roster if the Hearing Committee member fails or is unable to perform the essential duties of his or her position.

(5) The District Council shall remove Hearing Committee members from the Hearing Committee roster if the Hearing Committee member:

(a) ceases to meet the applicable criteria prescribed by By-law 20.9 (2) for industry members and by By-law 20.10 (2) for public members; or

(b) is a public member who engages in the type of relationship or conduct prohibited by By-law 20.10(3).

PART 6 - DECISION-MAKERS

20.13 Hearing Panel Composition and Quorum

(1) Any hearing pursuant to:

- (a) By-law 20.19 (approval review hearings);
- (b) By-law 20.29 (early warning level 2 review hearings);
- (c) By law 20.33 and By-law 20.34 (disciplinary hearings);
- (d) By-law 20.36 (settlement hearings);
- (e) By-law 20.45 and By-law 20.47 (expedited hearings);
- (f) By-law 20.47 (expedited review hearings);

shall be heard by a Hearing Panel comprised of two industry members and one public member appointed to the Hearing Committee of the applicable District, subject to subsection (2).

(2) Hearing Committee members may serve on Hearing Panels in other Districts where both Chairs of the respective Hearing Committees consent.

20.14 Selection of Panel Members for Hearings

(1) The National Hearing Coordinator shall be responsible for selection of members of Hearing Panels, District Council Panels, Board Panels and Appeal Panels, pursuant to By-law 20, and any other duties as prescribed by the IDA Rules of Practice and Procedure.

20.15 Conflicts of Interest

(1) A member of a District Council, the Board of Directors, or a Hearing Committee shall not be a member of a Panel with respect to a matter under By-law 20 if he or she:

- (a) is an officer, partner, director, employee or an associate of, or is providing services to, the Member, affiliate of the Member or related company of the Member, that is the Applicant or Respondent under By-law 20;
- (b) is an officer, partner, director, employee or an associate of a Member, affiliate of the Member or related company of, or is providing services to the Member, affiliate of the Member or related company of the Member where an Approved Person, who is the Applicant or Respondent under By-law 20, is employed;

(c) represents any parties to hearings under By-law 20 during the course of his or her appointment to a Hearing Committee; or

(d) has or had such other relationship to the Approved Person, Member, affiliate of the Member or related company of the Member, or matter as may give rise to a reasonable apprehension of bias.

20.16 Chair of Panels

(1) The following persons shall be appointed to serve as the Chair of the respective Panels:

(a) A public member of a Hearing Committee shall be appointed to be the Chair of any Hearing Panel.

(b) A public member of a Hearing Committee shall be appointed to be the Chair of any Appeal Panel pursuant to By-law 20.51(1)(c)(c) An industry member of the District Council shall be appointed to be the Chair of any District Council Panel, pursuant to By-law 20.26(4).

(c) An independent member of the Board of Directors shall be appointed to be the Chair of any Board Panel, pursuant to By-law 20.22(3).

(2) The Chair of a Panel, appointed pursuant to subsection (1), shall be responsible for conduct of a hearing in consultation with the other members of the Panel..

(3) The Chair of a Hearing Panel or Appeal Panel shall be responsible for drafting of decisions, with which he or she does not dissent, in consultation with the other members of the Hearing Panel or Appeal Panel.

20.17 Continuation of a Hearing With Two Panel Members

(1) A hearing under By-law 20 shall not continue where the Chair of Panel is unable to continue to be a member of the Panel hearing the matter.

(2) If a member of a Panel, other than the Chair of a Panel, is unable to continue to be a member of a Panel presiding over a hearing, the Chair of the Panel may decide, in his or her discretion, whether or not to proceed with the hearing.

(3) If the Chair of a Panel is unable to continue to be a member of a Panel, pursuant to subsection (1), or the Chair of the Panel decides not to proceed with the hearing, pursuant to subsection (2), a new Panel shall be constituted to preside over the hearing.

PART 7 - INDIVIDUAL AND MEMBERSHIP APPROVALS

APPROVAL APPLICATIONS

20.18 Powers of District Council

(1) The District Council shall have the power, which it may delegate to a Sub-committee of the District Council comprised of three industry members and established pursuant to By-law 11, or to Association Staff, to:

- (a) approve an application for approval as, or the transfer of a:
 - (i) sales manager, branch manager, assistant or co-branch manager, pursuant to By-law 4,
 - (ii) partner, director or officer, pursuant to By-law 7,
 - (iii) registered representative or investment representative, pursuant to By-law 18,
 - (iv) trader, pursuant to Regulation 500, or
 - (v) portfolio manager, futures contracts portfolio manager and associate portfolio manager pursuant to Regulation 1300.

(2) The District Council shall have the power, which it may delegate to a Sub-committee of the District Council, pursuant to subsection (1), to:

- (a) approve an application for approval or transfer referred to in By-law 20.18(1)(a) subject to such conditions as may be considered just and appropriate;
- (b) refuse an application for approval or transfer referred to in By-law 20.18(1)(a), if in its opinion:
 - (i) the Applicant does not meet any requirements prescribed by IDA By-laws, Regulations, Rulings or Policies;
 - (ii) the By-laws, Regulations, Rulings and Policies of the Association will not be complied with by the Applicant;
 - (iii) the Applicant is not qualified for approval by reason of integrity, solvency, training or experience; or
 - (iv) such approval is otherwise not in the public interest.

20.19 Review Hearings

(1) Association Staff or the Applicant may request a review of an approval decision by a Hearing Panel within ten business days after release of the decision.

(2) If a review is not requested within ten business days after release of the decision, the approval decision becomes final.

(3) No member of a District Council who has participated in a decision to refuse an application or impose conditions on an application, pursuant to By-law 20.18, shall participate on the Hearing Panel.

(4) A review hearing held under this Part shall be held in accordance with the IDA Rules of Practice and Procedure.

(5) The Hearing Panel may:

- (a) affirm the decision;
- (b) quash the decision;
- (c) vary or remove any terms and conditions imposed on approval;
- (d) limit the ability to re-apply for approval for such period of time as it determines just and appropriate; and
- (e) make any decision that could have been made by the District Council pursuant to By-law 20.18.

(6) No appeal shall be available from the decision of the Hearing Panel.

MEMBERSHIP APPLICATIONS

20.20 Recommendation of District Council

(1) The District Council, or a sub-committee of the District Council comprised of three industry members established pursuant to By-law 11, shall make a recommendation to the Executive Committee of the Board of Directors to:

- (a) approve an application for Membership made pursuant to By-law 2;
- (b) approve the application subject to such terms and conditions as may be considered just and appropriate; or
- (c) refuse the Application if, in the opinion of the District Council or the Sub-committee of the District Council:
 - (i) the Applicant does not meet any requirements prescribed by IDA By-laws, Regulations, Rulings of Policies;
 - (ii) the By-laws, Regulations, Rulings and Policies of the Association will not be complied with by the Applicant;
 - (iii) the Applicant is not qualified for approval by reason of integrity, solvency, or experience; or
 - (iv) such approval is otherwise not in the public interest.

20.21 Powers of the Executive Committee of the Board of Directors

(1) The Executive Committee of the Board of Directors shall have the power to:

- (a) approve an application for Membership made pursuant to By-law 2;
- (b) approve the application subject to such terms and conditions as may be considered just and appropriate;
- (c) refuse the application if, in its opinion:
 - (i) the By-laws, Regulations, Rulings and Policies of the Association will not be complied with by the Applicant;
 - (ii) the Applicant is not qualified for approval by reason of integrity, solvency, or experience; or
 - (iii) such approval is otherwise not in the public interest.

20.22 Review Hearings

- (1) Association Staff or the Applicant may request a review of a membership approval decision by a Board Panel within thirty business days after release of the decision.
- (2) If a review is not requested within thirty business days after release of the decision, the membership approval decision becomes final.
- (3) The review hearing shall be presided over by a panel of the Board of Directors comprised of one independent member of the Board of Directors and two industry members of the Board of Directors, and where the Applicant is a Quebec firm, at least one of the members of the Board Panel shall be resident in Quebec. No member of the Executive Committee of the Board of Directors who participated in the making of the membership approval decision shall be a member of the Board Panel.
- (4) A review hearing held under this Part shall be held in accordance with the IDA Rules of Practice and Procedure.
- (5) The Board Panel may:
 - (a) affirm the decision;
 - (b) quash the decision;
 - (c) vary or remove any terms and conditions imposed on Membership;
 - (d) limit the ability to re-apply for approval for such period of time as it determines just and appropriate; and
 - (e) make any decision that could have been made by the Executive Committee pursuant to By-law 20.21.
- (6) No appeal shall be available from the decision of the Board Panel.

20.23 District Council Powers -- Exemption for Payment of Entrance Fee

Notwithstanding By-law 20.20, By-law 20.21 and By-law 20.22, if an Applicant is exempted from payment of the Entrance Fee pursuant to By-law 3.4 and has met all Membership application conditions pursuant to By-law 2, except any conditions the District Council has waived in the circumstances, the District Council may approve the application for Membership without referral to the Executive Committee of the Board of Directors for final decision.

PART 8 - EXEMPTION REQUEST APPLICATIONS

PROFICIENCY EXEMPTIONS

20.24 Powers of District Councils

- (1) Persons may apply for a proficiency exemption pursuant to Policy 6.
- (2) The District Council, or a sub-committee of the District Council comprised of three industry members and established pursuant to By-law 11, shall have the power, to:
 - (a) exempt any person or class of persons from proficiency requirements, pursuant to paragraph B of Policy 6 - Part I Proficiency Requirements on such terms and conditions, if any, as it may determine;
 - (b) exempt any person from writing or re-writing any required course or examination , pursuant to paragraph C of Policy 6 - Part II Course and Examination Exemptions, on such terms and conditions, if any, as it may determine; or
 - (c) exempt any person from the Continuing Education Program requirements, pursuant to Section A.3 of Policy 6 -- Part III The Continuing Education Program, on such terms and conditions, if any, as it may determine.
- (3) The District Council, or a sub-committee of the District Council comprised of three industry members and established pursuant to By-law 11, may delegate the power to approve or refuse proficiency exemptions to Association Staff.

INTRODUCING CARRYING BROKER ARRANGEMENT EXEMPTIONS

20.25 Powers of District Councils

- (1) Members may apply for an exemption from the introducing carrying broker arrangement requirements pursuant to By-law 35.
- (2) The District Council, or a sub-committee of the District Council, established pursuant to By-law 11, shall have the power to:
 - (a) exempt any Member from any of the requirements of By-law 35 on such terms and conditions, if any, as it determines to be just and appropriate; and
 - (b) exempt any arrangements between a Member and a Member's foreign affiliate, pursuant to By-law 35.6, from the requirements of By-law 35 on such terms and conditions, if any, as it determines to be just and appropriate.

(3) The Member shall comply with any rules applicable to introducing carrying broker arrangement exemption applications prescribed by the IDA Rules of Practice and Procedure.

(4) The Member shall be provided with notice of the decision where the exemption is granted and the decision with reasons where the exemption is refused or granted subject to conditions.

EXEMPTION REVIEW HEARINGS

20.26 Review Hearings

(1) The Applicant or Association Staff may apply for a review of the District Council decisions pursuant to By-law 20.24 or By-law 20.25 within ten business days after release of the decision.

(2) If the Applicant does not request a review within the time period prescribed in subsection (1), the District Council decision to refuse the exemption request application or approve the exemption request application subject to terms and conditions, shall become final.

(3) If Association Staff requests a review within the time period prescribed in subsection (1), the request for review shall operate as a stay from the District Council decision.

(4) A review of a District Council decision shall be heard by a District Council Panel comprised of three members of the District Council. No member of a District Council who participated in the District Council decision shall sit on the District Council Panel.

(5) The District Council Panel may:

(a) affirm the decision;

(b) quash the decision;

(c) vary or remove any terms and conditions imposed on an Applicant; and

(d) make any decision that could have been made by the District Council or a sub-committee of the District Council pursuant to By-law 20.24 and By-law 20.25.

(6) No appeal shall be available from the decision of the District Council Panel.

20.27 Costs

(1) The District Council Panel may order against the Applicant any costs associated with the exemption request review hearing determined to be appropriate and reasonable.

(2) Costs shall not be assessed where the District Council Panel grants the exemption request.

PART 9 - EARLY WARNING REVIEW PROCEEDINGS

20.28 Imposition of Prohibitions - Early Warning Level 2

(1) The Senior Vice-President Member Regulation, or his or her delegate may, in his or her discretion, order that a Member designated as being in Early Warning Level 2, pursuant to By-law 30, be prohibited from:

- (a) opening any new branch offices;
- (b) hiring any new registered representative, or investment representative;
- (c) opening any new customer accounts; or
- (d) changing, in any material respect, the inventory positions of the Member.

(2) Written notice of an order made under subsection (1) shall be provided to the Member.

20.29 Review of Early Warning Level 2 Prohibitions

(1) The Member may request a review of a By-law 20.28 order by a Hearing Panel within three business days after release of the decision.

(2) If a request for review is made, the hearing shall be held as soon as reasonably possible and no later than twenty-one calendar days after the request for review, unless otherwise agreed by the parties.

(3) If a Member does not request a review within the time period prescribed in subsection (1), the By-law 20.28 order becomes effective and final.

(4) A Hearing Panel may:

- (a) affirm the order;
- (b) quash the order; or
- (c) vary or remove any prohibitions imposed on the Member; and
- (d) make any decision that could have been made by the Senior Vice-President Member Regulation, or his or her designate pursuant to By-law 20.28.

(5) No appeal shall be available from the decision of the Hearing Panel.

PART 10 - ENFORCEMENT HEARINGS

INITIATION OF ENFORCEMENT HEARINGS

20.30

(1) The Association may hold hearings, as set out under this By-law, in order to ensure compliance with and enforcement of Association By-laws, Regulations, Rulings and Policies and federal or provincial statutes, regulations, rulings or policies relating to trading or advising in respect of securities or commodities.

(2) The categories of enforcement hearings under By-law 20 are: disciplinary hearings; settlement hearings and expedited hearings. Enforcement hearings shall be conducted in accordance with this By-law and the IDA Rules of Practice and Procedure.

POWERS OF COMPULSION

20.31 Members, Approved Persons and Association Staff

(1) Every Member, Approved Person and Association Staff member shall:

(a) attend and give evidence respecting any matter relevant to hearings pursuant to By-law 20.33, By-law 20.34 or By-law 20.42 upon receipt of notice from the National Hearing Coordinator or his or her designate or order of a Hearing Panel; and

(b) produce for inspection and provide copies of any books, records, accounts and documents that are in the possession or control of the Member or Approved Person, to a Hearing Panel upon receipt of notice from the National Hearing Coordinator or order of the Hearing Panel.

(2) Failure to comply with subsections 1(a) or (b) constitutes a contravention of Association By-laws and may result in disciplinary action under By-law 20.33 or By-law 20.34.

20.32 Partners, Directors, Officers and Employees of Members

(1) Where a Hearing Panel requires the attendance before it of any partner, director, officer or employee of a Member, who is not an Approved Person, the Member shall direct such employee to attend and to give information or make such production of documents as can be required of a person referred to in By-law 20.31.

(2) Failure by the Member to comply with subsection (1) constitutes a contravention of Association By-laws and may result in disciplinary action under By-law 20.34.

PENALTIES

20.33 Approved Persons

(1) Upon conclusion of a disciplinary hearing, a Hearing Panel may impose the penalties set out at 20.33(2) if, in the opinion of the Hearing Panel, the Approved Person:

(a) failed to comply with or carry out the provisions of any federal or provincial statute, regulation, ruling or policy relating to trading or advising in respect of securities or commodities;

(b) failed to comply with the provisions of any By-law, Regulation, Ruling or Policy of the Association; or

(c) failed to carry out an agreement or undertaking with the Association.

(2) Pursuant to subsection (1), a Hearing Panel may impose any one or more of the following penalties upon the Approved Person:

- (a) a reprimand;
- (b) a fine not exceeding the greater of:
 - (i) \$1,000,000 per contravention; and
 - (ii) an amount equal to three times the profit made or loss avoided by such Approved Person by reason of the contravention.
- (c) suspension of approval for any period of time and upon any conditions or terms;
- (d) terms and conditions of continued approval;
- (e) prohibition of approval in any capacity for any period of time;
- (f) termination of the rights and privileges of approval;
- (g) revocation of approval;
- (h) a permanent bar from approval with the Association; or
- (i) any other fit remedy or penalty.

20.34 Members

(1) Upon conclusion of a disciplinary hearing, a Hearing Panel may impose the penalties set out at By-law 20.34(2) if, in the opinion of the Hearing Panel, the Member:

- (a) failed to comply with or carry out the provisions of any federal or provincial statute, regulation, ruling or policy relating to trading or advising in respect of securities or commodities;
- (b) failed to comply with the provisions of any By-law, Regulation, Ruling or Policy of the Association;
- (c) failed to carry out an agreement or undertaking with the Association; or
- (d) failed to meet liabilities to another Member or to the public.

(2) Pursuant to subsection (1), a Hearing Panel may impose any one or more of the following penalties upon the Member:

- (a) a reprimand;
- (b) a fine not exceeding the greater of:
 - (i) \$5,000,000 per contravention; and

- (ii) an amount equal to three times the profit made or loss avoided by the Member by reason of the contravention;
- (c) suspension of the rights and privileges of the Member (and such suspension may include a direction to the Member to cease dealing with the public) for any period of time and upon any conditions or terms;
- (d) terms and conditions of continued Membership;
- (e) termination of the rights and privileges of Membership;
- (f) expulsion of the Member from membership in the Association; or
- (g) any other fit remedy or penalty.

SETTLEMENT HEARINGS

20.35 Negotiation of Settlement Agreements

- (1) Association Staff may negotiate a Settlement Agreement with any Approved Person or Member.
- (2) The parties to a Settlement Agreement may agree to the imposition of any of the penalties prescribed by By-law 20.33 or By-law 20.34.
- (3) Settlement discussions may occur at any time until the conclusion of a settlement hearing or a disciplinary hearing.
- (4) All negotiations of a Settlement Agreement are conducted on a without prejudice basis to the Association and all other persons involved in the negotiations and cannot be used as evidence or referred to in any proceedings.

20.36 Hearing Panel Powers

- (1) Upon conclusion of a settlement hearing, the Hearing Panel may either:
 - (a) accept the Settlement Agreement; or
 - (b) reject the Settlement Agreement.
- (2) Settlement Agreements shall become effective and binding upon Association Staff and an Approved Person or Member upon acceptance by a Hearing Panel. An Approved Person or Member shall be deemed to have been penalized pursuant to By-law 20.33 or By-law 20.34 upon acceptance of a Settlement Agreement by a Hearing Panel.

20.37 Acceptance Of Settlement Agreement

- (1) The decision of a Hearing Panel accepting a Settlement Agreement shall constitute final disciplinary action of the Association and no appeal shall be available from the decision.

20.38 Rejection of Settlement Agreement -- Proceeding to a Subsequent Settlement Hearing

- (1) If a Settlement Agreement is rejected by a Hearing Panel, the parties may agree to enter into another Settlement Agreement.
- (2) No member of the Hearing Panel that presided over the initial settlement hearing shall sit on the Hearing Panel presiding over the subsequent settlement hearing.
- (3) The reasons for rejecting a Settlement Agreement shall not be made public upon rejection of the initial settlement hearing, but shall be made available to a Hearing Panel presiding over the subsequent settlement hearing.

20.39 Rejection of Settlement Agreement -- Proceeding to A Disciplinary Hearing

- (1) If a Settlement Agreement or a subsequent Settlement Agreement is rejected by a Hearing Panel, the Association may proceed to a disciplinary hearing based on the same or related disciplinary charges pursuant to By-law 20.33 or By-law 20.34.
- (2) No member of the Hearing Panel that presided over the settlement hearing or subsequent settlement hearing shall sit on a Hearing Panel constituted for a disciplinary hearing on the same or related disciplinary charges.

20.40 Rejection of Settlement Agreement

- (1) There shall be no appeal from a decision of a Hearing Panel rejecting a Settlement Agreement.

EXPEDITED HEARINGS

20.41 Expedited Hearings

- (1) Expedited hearings are held upon application by Association Staff and without notice to the Respondent in the circumstances prescribed in By-law 20.42 and By-law 20.43.

20.42 Types of Expedited Hearings- Members

- (1) A Hearing Panel may impose any of the penalties prescribed by By-law 20.45 upon a Member in any of the following circumstances:

Bankruptcy

- (a) a Member makes a general assignment for the benefit of its creditors, makes an authorized assignment or a proposal to its creditors; is declared bankrupt, or a winding-up order is made in respect of a Member or a receiver or other officer with similar powers is appointed in respect of all or any part of the undertaking and property of the Member.

Suspension or Cancellation of Registration or Membership

(b) the registration of a Member as a dealer in securities or commodities under any statute respecting trading or advising in respect of securities or commodities or as an underwriter in any statute in respect of securities or commodities has lapsed or is suspended or cancelled;

(c) a recognized stock exchange, securities commission, securities regulatory authority, self-regulatory organization or any recognized trading or quotation system suspends the Membership or privileges of a Member;

Financial or Operating Difficulty

(d) where a Member is in such financial or operating difficulty that the Hearing Panel determines the Member cannot be permitted to continue to operate without risk of imminent harm to the public, other Members or the Association;

Failure to Cooperate With Association Compliance Examinations or Investigations

(e) where a Member fails to cooperate with Association compliance examinations or investigations pursuant to By-law 19 and the Hearing Panel determines that the Member cannot be permitted to continue to operate without risk of imminent harm to the public, other Members or the Association;

Criminal Charges

(f) where a Member has been charged with a criminal offence relating to theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation or unauthorized trading, and such criminal charge likely brings the capital markets into disrepute.

Non-Compliance With Conditions

(g) where a Member fails to comply with terms or conditions imposed pursuant to By-law 20.33, By-law 20.34 or By-law 20.38 or By-law 20.29.

20.43 Types of Expedited Hearings - Approved Persons

(1) A Hearing Panel may impose any of the penalties set out in By-law 20.45 upon an Approved Person in any of the following circumstances:

Suspension or Cancellation of Registration or Approval

(a) the registration or approval of an Approved Person under any statute respecting trading or advising in respect of securities or commodities has lapsed, is suspended or cancelled;

(b) a recognized stock exchange, securities commission, securities regulatory authority, self-regulatory organization or recognized trading or quotation system suspends an Approved Person;

Failure to Cooperate With Association Compliance Examinations and Investigations

(c) failure to cooperate with Association compliance examinations and investigations pursuant to By-law 19 and the Hearing Panel determines that the Approved Person cannot be permitted to continue to be an Approved Person without risk of imminent harm to the public, other Members or the Association;

Criminal Charges

(d) where an Approved Person has been charged with a criminal offence relating to theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation or unauthorized trading, and such criminal charge likely brings the capital markets into disrepute;

Non-Compliance With Conditions

(e) where an Approved Person fails to comply with terms or conditions imposed pursuant to By-law 20.33, By-law 20.34, or By-law 20.38.

20.44 Non-payment of Fines or Costs

(1) In the event that a fine or costs imposed by a Hearing Panel are not paid within the prescribed time, the Senior Vice-President Member Regulation, or his or her designate may summarily, without further notice, suspend a Member or Approved Person, until such fine or costs are paid.

20.45 Powers Of Hearing Panel

(1) A Hearing Panel has the power to impose any of the following penalties upon a Respondent who is an Approved Person or Member in the circumstances prescribed in By-law 20.42 and By-law 20.43:

- (a) suspension of approval or Membership;
- (b) imposition of terms or conditions on a suspension of approval or Membership;
- (c) imposition of terms or conditions on continued approval or Membership;
- (d) direction to immediately cease dealing with the public;
- (e) an order with terms and conditions to facilitate the orderly transfer of client accounts from a Member suspended under this By-law;
- (f) termination of the rights and privileges of approval or Membership;
- (g) expulsion of an Approved Person or Member from the Association; or
- (h) imposition of a Monitor pursuant to By-law 20.46.

20.46 Powers Of Hearing Panel To Impose A Monitor

(1) A Hearing Panel may order the imposition of a Monitor, on such terms and conditions as it deems just and appropriate, where it is in the interest of the public, and the Hearing Panel determines that:

- (a) the Member is at financial risk and may become insolvent;
- (b) client accounts are at risk of financial loss due to a Member's financial condition, inadequate internal controls or deficient operating procedures;
- (c) the Member has failed to maintain regulatory capital requirements as prescribed by Association By-laws, Rules, Regulations or Policies or any federal or provincial statute, Regulation, Ruling or Policy relating to trading or advising in respect of securities or commodities; or
- (d) the securities firm has been suspended by the Association or other regulatory or self-regulatory organization for failure to meet regulatory capital requirements.

(2) A Monitor appointed pursuant to subsection (1) shall monitor the Member's business and financial affairs in accordance with the terms and conditions specified by the Hearing Panel.

(3) A Hearing Panel may assign any of the following terms and conditions to the Monitor, for such period of time as the Hearing Panel determines is just and appropriate in the circumstances:

- (a) to enter and re-enter the Member's premises and to remain on site to conduct day-to-day monitoring of all of the Member's business activities, including but not limited to, monitoring and review of accounts receivable, accounts payable, client accounts, margin, client free credits, the Member's banking, any books or records of the Member, trading conducted by or on behalf of the Member for its' own account or the account of its' clients, payment of any debts or the creation of new debt and any reconciliation required to be completed by the Member;
- (b) to make copies of information and to provide copies of such information to Association Staff or any other agency the Hearing Panel determines appropriate;
- (c) to provide ongoing reporting of the Monitor's findings or observations to Association Staff or any other agency the Hearing Panel determines appropriate;
- (d) to monitor compliance by the Member with any terms or conditions which have been imposed on the Member by the Association or any other regulator, including but not limited to, compliance with early warning terms and conditions;
- (e) to verify and assist with the preparation of any regulatory filings, including but not limited to, the calculation of risk adjusted capital;
- (f) to conduct or have conducted an appraisal of the Member's net worth or valuation of any part of the Member's assets;
- (g) to assist the staff of the Member to facilitate the orderly transfer of client accounts;
- (h) to pre-authorize any issuance of cheques or payments made by or on behalf of the Member or distribution of any of the Member's assets; or
- (i) any other such terms or conditions that the Hearing Panel determines is just and appropriate to assign to the Monitor.

(4) The expenses related to a Monitor appointed pursuant to By-law 20.46 shall be borne by the Member.

20.47 Review Hearing

(1) The Respondent may file a written request for review of any decision made pursuant to By-law 20.45 within thirty calendar days after release of the decision of the Hearing Panel.

(2) If a request for review is made, pursuant to subsection (1), a hearing shall be held as soon as reasonably possible and no later than twenty-one calendar days after filing of the written request for review unless otherwise agreed by the parties.

(3) No member of a Hearing Panel who presided over a hearing held pursuant to By-law 20.45 shall sit on a Hearing Panel constituted for review of that decision.

(4) If a Respondent does not request a review within the time period prescribed in subsection (1), the Hearing Panel decision shall become final.

(5) Unless the Hearing Panel orders otherwise, a request for a review shall not operate as a stay from a decision made pursuant to By-law 20.45, notwithstanding By-law 20.53 (1).

(6) The review decision of a Hearing Panel may be appealed by either party pursuant to By-law 20.50.

20.48 Powers of The Hearing Panel - Review Hearing

(1) The Hearing Panel presiding over the review hearing may:

(a) affirm any decision;

(b) quash any decision;

(c) vary any decision or penalty; and

(d) make any decision that could have been made by a Hearing Panel pursuant to By-law 20.45.

ASSESSMENT OF COSTS

20.49 Assessment of Costs

(1) In addition to imposing any of the penalties set out in By-law 20.33, By-law 20.34 or By-law 20.45, the Hearing Panel may assess and order any Association Staff investigation and prosecution costs determined to be appropriate and reasonable in the circumstances.

(2) Costs shall not be assessed where the Hearing Panel has not made a finding against the Respondent based on any of the grounds set out at By-law 20.33(1) or By-law 20.34(1) or where an expedited decision is quashed upon review pursuant to By-law 20.48(1).

PART 11 - APPEALS OF DISCIPLINARY AND EXPEDITED REVIEW DECISIONS

20.50 Right of Appeal

- (1) The Association and a Respondent may appeal a disciplinary decision made by a hearing Panel to an Appeal Panel.
- (2) A Respondent may appeal an expedited review hearing decision made by a Hearing Panel to an Appeal Panel.
- (3) An appeal may be made on questions of law or fact or both.

20.51 Composition of Appeal Panel

- (1) The Appeal Panel shall be comprised of:
 - (a) one independent member of the Board of Directors;
 - (b) one industry member of the Board of Directors; and
 - (c) one former judge, who is a public member of a Hearing Committee of the District in which the disciplinary hearing or expedited review hearing was heard, or a former judge who is a public member of a Hearing Committee of a District, other than that in which the hearing or expedited review hearing was heard, if the two chairs of the respective Hearing Committees consent.

20.52 Appeal Process

- (1) An application for appeal to the Appeal Panel must be made within thirty calendar days after release of the decision of the Hearing Panel.
- (2) An application for appeal shall state the basis for such appeal pursuant to the IDA Rules of Practice and Procedure.

20.53 Effect of Appeal Application

- (1) An appeal to the Appeal Panel from a decision of a Hearing Panel shall operate as a stay from the decision, unless ordered otherwise by the Appeal Panel.
- (2) Notwithstanding subsection (1), an appeal to the Appeal Panel from an expedited review hearing decision shall not operate as a stay from the decision, unless ordered otherwise by the Appeal Panel.
- (3) If the decision or order of the Hearing Panel suspends, expels or revokes registration of an Approved Person, the Approved Person shall be subject to strict supervision until release of the appeal decision.

20.54 Powers of Appeal Panel

- (1) A hearing held under this Part shall be an appeal on the record, however, the Appeal Panel may receive new or additional evidence as it considers just.
- (2) The Appeal Panel may:
 - (a) affirm any decision;

- (b) quash any decision;
- (c) vary any decision or penalty;
- (d) make any decision that could have been made by a Hearing Panel pursuant to By-law 20.33, By-law 20.34, By-law 20.45 and By-law 20.49
- (e) extend or limit the decision's application and effect to any Districts of the Association;
- (f) order a new hearing; or
- (g) make any order or decision that is considered just.

PART 12 - PUBLIC HEARINGS

20.55 Public Hearings

- (1) The following types of hearings shall be open to the public subject to subsection (2):
 - (a) settlement hearings, after a Settlement Agreement has been accepted by Hearing Panel, pursuant to By-law 20.36;
 - (b) disciplinary hearings pursuant to By-law 20.33 and By-law 20.34;
 - (c) expedited review hearings pursuant to By-law 20.47; and
 - (d) enforcement appeal hearings pursuant to By-law 20.50.
- (2) The hearings prescribed in subsection (1) shall be held in the absence of the public where the Hearing Panel or Appeal Panel is of the opinion that the desirability of avoiding disclosure, of intimate financial, personal or other matters, in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be public.

PART 13 - RULE MAKING POWERS

20.56 Rule-making Powers of the Member Regulation Oversight Committee

- (1) The Member Regulation Oversight Committee of the Association may enact, amend, repeal and re-enact, Rules of Practice and Procedure related to By-law 20.

PART 14 - TRANSITIONAL PROVISIONS

20.57 Transitional Provisions

- (1) Subject to subsection (2), any provision of any By-law, Regulation, Ruling or Policy of the Association in effect immediately prior to the coming into effect of these Rules shall remain in full force and effect until such By-law, Rule, Regulation, Ruling or Policy, has been repealed.

(2) In the event of a conflict between this By-law and the provisions of any By-law, Regulation, Ruling or Policy of the Association that remains in effect after this By-law comes into effect, the provisions of this By-law shall prevail.