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By-Laws and Regulations

Penalty Increases in Disciplinary Proceedings

In recent years there has been an expansion in the breadth of investigations being conducted and a substantial increase in the penalties being imposed by both securities commissions and self-regulatory organizations in Canada and the United States. These initiatives illustrate enhanced efforts by regulatory agencies to ensure strict compliance with industry rules, to deter misconduct and to maintain investor confidence in the expanding capital markets.

The trend toward increased regulatory vigilance and the recovery of higher penalties has had the complete support of members of self-regulatory organizations. This is clear from the broader scope of investigations currently being conducted by the enforcement divisions of North American SROs and the more severe penalties currently being imposed by disciplinary panels. Recent penalty guidelines issued by the Toronto Stock Exchange, the Vancouver Stock Exchange and the National Association of Securities Dealers also demonstrate this support.

The Investment Dealers Association of Canada, as the only national SRO in the industry, is playing a major role in furthering these initiatives. As a result, staff of the Enforcement Division for some time now has been instructed to include a review of the adequacy of supervisory procedures in every investigation into an allegation of regulatory misconduct and to consider seeking disgorgement of profits, commissions or other benefits in addition to fines and other sanctions in appropriate cases. Reliance is being placed on more current precedents and on the penalty guidelines of other SROs in assessing the sanctions to be sought in disciplinary proceedings. Therefore, parties receiving notification of a pending investigation by the IDA may anticipate that Enforcement staff, continuing to operate in furtherance of this recent trend, will be conducting more extensive investigations of possible transgressions and, if disciplinary measures are deemed appropriate, will be seeking more severe sanctions than what might have been sought in the past.

Lyn M. Gilchrist
Association Secretary