



Now New Self-Regulatory Organization of Canada,
a consolidation of IIROC and the MFDA

Distributing Funds Disgorged and Collected through New SRO Disciplinary Proceedings to Harmed Investors

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A. Background and Overview

Current State

Currently, New Self-Regulatory Organization of Canada (**New SRO**)¹ does not have the ability to distribute the funds collected through its disciplinary proceedings to harmed investors.

The monetary amounts New SRO collects through enforcement proceedings are classified as either fines or disgorgement. Fines are administrative penalties imposed for breaches of the New SRO Rules. They are used to deter wrongful conduct. Under the New SRO Investment Dealer and Partially Consolidated Rules, a hearing panel may also order disgorgement, which is defined as “any amount obtained, including any loss avoided, directly or indirectly, as a result of the contravention.” Disgorgement aims to restrain future harmful conduct by ensuring that respondents, who are found to be liable for breaching the rules, do not benefit financially from their misconduct. Typical examples of disgorgement include ill-gotten profits, fees or incorrect commissions charged by a Registered Representative, Portfolio Manager or Associate Portfolio Manager (**advisor**) or a Dealer Member (**firm**).

In the past, disgorgement was often included in a global fine in both the MFDA and IIROC disciplinary proceedings. MFDA hearing panels ordered disgorgement, which was included in the global monetary sanction imposed on the respondents and collected through the MFDA enforcement proceedings.

In 2020, IIROC Enforcement started to itemize more regularly disgorgement, where evidence permitted, as a separate item of monetary penalties. Consequently, more IIROC hearing panel decisions showed disgorgement as a separate penalty item. Between April 2009 and December 2022, IIROC’s hearing panels ordered \$7.9 million in disgorgement in 77 enforcement cases. In that period, IIROC collected over \$1 million in disgorgement. **Appendix A** provides specific details in regard to these cases.

These amounts, along with other monetary penalties collected through disciplinary proceedings (i.e., fines), go into the Restricted Fund and are used for the purposes enumerated in the Recognition Orders. As will be discussed further below, these permitted uses currently do not include distributing funds to harmed investors.

Initial Research

In 2020, IIROC commissioned a report entitled [*Qualitative Research among Complainants \(Complainants Research\)*](#) to better understand the needs and expectations of investors who participate in IIROC’s complaint process. Some of the investor complainants who participated in the research indicated that they were seeking an outcome that would include financial compensation, either with a process where the regulator would facilitate direct compensation between the firm/advisor and the complainant, or with the regulator taking responsibility for the collection and distribution of the disgorged funds to harmed investors. Some investor complainants felt that returning disgorged funds to investors might increase the perceived strength of the regulator.

¹ Prior to January 1, 2023, Investment Industry Organization of Canada (**IIROC**) and the Mutual Fund Dealers Association of Canada (**MFDA**).

In its priorities ([2021](#), [2022](#) and [2023](#)), IIROC committed to exploring a possibility of returning funds disgorged through enforcement proceedings to investors who suffered losses at the hands of an advisor or a firm.

That work commenced in early 2021, by engaging a group of students at the Investor Protection Clinic at the University of Toronto Faculty of Law. The students were asked to help research and benchmark the existing investor compensation regimes in Canada and internationally, with a focus on distributing disgorged funds to harmed investors. The research provided an overview of investor compensation and distribution models, by way of either direct restitution or distribution of disgorged funds, that currently exist in Canada, the U.S., U.K., Germany, France, Dubai, Australia, New Zealand, Hong Kong, Singapore, and Japan. Among other things, the research showed that there was no one-size-fits-all model. In terms of distributions of disgorged funds², while the exact verbiage varies, the legislative intent has generally allowed regulators to distribute disgorged funds to harmed investors.

This initial research helped identify certain common questions that need to be considered and addressed when structuring a program with a goal to distribute funds to harmed investors, including:

- *The nexus between investor losses and regulatory breaches* (i.e., are payments only available to investors whose losses are proven through disciplinary proceedings, where it is relatively straightforward to link losses to the disgorged amount, or can it be open to other investors who did not complain to a regulator or participate in disciplinary proceedings but have also suffered losses?)
- *Regulator's involvement in the collection process* (i.e., should the regulator's involvement be limited to finding a regulatory breach and ordering the firm or advisor to pay the money to harmed investors [often referred to as restitution], leaving the collection process to the investors [through court or other means], or should it extend to collection and distribution of the funds to harmed investors?)
- *Structure and resources needed to administer a program to distribute funds to harmed investors* (i.e., should the distribution process be part of, or separate from, the enforcement process, and who is best positioned to administer such program and carry out the distribution of funds to investors?)
- *Regulatory discretion and transparency* (i.e., what regulatory discretion would an effective distribution program require and what information should be reported to create a successful program?)
- *Investor identification and notice* (i.e., what is the best process to identify and notify affected investors, particularly if multiple investors or multiple jurisdictions are involved, if the affected investor group is large or hard to ascertain, if an investor declines to partake in the distribution or has already received compensation?)

² Often described as an amount wrongfully obtained or loss avoided.

Further Research and Analysis

Following the initial research, an internal working group (**Working Group**)³ was formed to conduct further research and consider these and other questions. The Working Group identified several key jurisdictions as closest comparatives, most of which were in Canada. Throughout Summer and Fall 2021, the Working Group met with the Autorité des marchés financiers, Alberta Securities Commission, British Columbia Securities Commission, Nova Scotia Securities Commission, Financial and Consumer Services Commission of New Brunswick, Ontario Securities Commission, Financial and Consumer Affairs Authority of Saskatchewan, and Financial Industry Regulatory Authority (FINRA) in the U.S. to discuss their respective frameworks and practices. The goal of the Working Group was to better understand the frameworks for distributing funds to harmed investors currently used by other regulators, or the reason for not distributing funds from disgorged amounts.

This research helped identify three general approaches to structuring a program that, at a high level, can be summarized as follows:

1. *Distribution of funds to investors is built-in to the enforcement process:* distribution of funds to investors is considered in the early stages of the enforcement process, with enforcement seeking (in appropriate cases) a disgorgement order at a disciplinary hearing, then collecting the funds and carrying out the distribution of disgorged funds to investors; claim eligibility is limited to investors who participated in the enforcement proceedings.
2. *Distribution of funds to investors follows the enforcement process:* claims for payment from disgorged funds are made and assessed separately and typically after the enforcement proceedings are completed; eligibility is open to all potential claimants who suffered losses due to the misconduct and directly linked to the findings made in the disciplinary proceedings.
3. *Investor compensation process is distinct and separate from the enforcement process:* investor claims for compensation are considered in a separate hearing, at the conclusion of a disciplinary proceeding; claim eligibility is not limited to the evidence used in the disciplinary proceeding; investor losses are proven and a restitution order is made at a compensation hearing.

Proposal Summary

Having reviewed different approaches that currently exist in different jurisdictions and considering New SRO's current practices and resources, the Working Group is of the view that the second approach (above), with appropriate modifications, represents the most suitable model for making distributions to harmed investors from disgorged funds collected through New SRO's disciplinary proceedings.

Rather than creating a standalone restitution program, New SRO could build on its current processes regarding disgorgement and the collection of the funds through enforcement proceedings. A class of

³ The Working Group included representatives of GCO, Enforcement and Member Policy departments.

potential eligible investors could be identified at the investigation and prosecution stages. The class would be limited by the time periods and issues alleged in the enforcement proceeding, and ultimately whether the advisor or the firm are found liable for the alleged misconduct by a panel hearing the disciplinary matter. Although this approach potentially risks excluding certain investors, removing these limits risks shifting the focus of the enforcement process from prevention and deterrence of misconduct to investor compensation, which investors should pursue in other fora (i.e., civil court, OBSI, arbitration).

It is, therefore, also critical to structure the program outside of the enforcement process. Once a disgorgement order is made and funds are collected, the assessment of claims and distribution of funds to investors should be carried out by a separate branch of New SRO, not involved in the disciplinary proceedings. Given the current transitional state, with IROC and the MFDA having recently consolidated to form a new self-regulatory organization, the Working Group is unable to identify with certainty which group within New SRO would be best positioned to carry out the mandate of the program. However, there should be a designated New SRO branch or designated employees of New SRO carrying out the function of the program administrator (**Administrator**).

The Administrator's functions will follow the enforcement process, after a disgorgement order is made, and funds are collected. In many cases, particularly where a disciplined advisor or a firm is subject to other proceedings or sanctions or has limited resources, it will be very difficult for individual investors to pursue collection on their own.⁴ New SRO therefore should continue to enforce disgorgement orders which may benefit the investors.

As early as possible in the process, the Administrator would provide notice to all known investors identified through the enforcement proceedings and may publish notices on New SRO's website⁵ and other public sources. The notice period may vary in length depending on the complexities of a distribution, and at the Administrator's discretion, between 30 to 90 days. At the end of the notice period, the Administrator will review the eligibility of the investor claims and advise claimants about their entitlement. If a claim is rejected or a claimant disagrees with the amount of their entitlement, a claimant can request that the Administrator reconsider the amount of their entitlement.

The Administrator would carry out the distribution of the funds after all claims are received and reconsiderations are completed. In cases where eligible investors are known through the enforcement process and the full amount of disgorgement ordered is collected, claimants may be able to recover up to the maximum of the disgorged amounts (e.g., up to the amount of the commissions or fees they should not have paid, or ill-gotten profits received / losses avoided by the advisor or the firm). Where the amount collected is less than the total disgorgement ordered, New SRO would distribute funds between the claimants on a *pro rata* basis. After the payment of the funds, the distribution would be closed, and any residual amounts could be used for the other enumerated purposes of the New SRO Restricted Fund.

These and other elements of the proposed program are discussed in more detail below.

⁴ Collection is particularly problematic where a registrant is out of the industry with no intention to return.

⁵ E.g., a section of the website allocated to the New SRO Office of the Investor as discussed below.

B. Enforcement Proceedings

New SRO's Powers to Disgorge & Current Enforcement Practices

Monetary sanctions imposed in New SRO enforcement proceedings may include fines and disgorgement. Disgorgement is different from fines;⁶ it includes direct or indirect financial benefits, i.e., ill-gotten profits, fees or commissions wrongfully obtained, and loss avoided by an advisor or a firm.

All versions of the New SRO Disciplinary Sanction Guidelines recognize the principle that a wrongdoer should not benefit, directly or indirectly, from conduct that violates regulatory requirements.⁷

Consistent with the prior IROC Rules, the current [Investment Dealer and Partially Consolidated Rules](#) specifically allow a hearing panel to order disgorgement as against both firms (Subsection [8209\(1\)\(ii\)](#)) and individual advisors (Subsection [8210\(1\)\(ii\)](#)). Specifically, a hearing panel may order “disgorgement of any amount obtained, including any loss avoided, directly or indirectly, as a result of the contravention.” This authority also existed under the IROC Dealer Member Rules, which were effective until December 2021.

Although the [Mutual Fund Dealer Rules](#) do not specifically refer to “disgorgement”, the concept has been in the rules for many years. The current Subsection [7.4.1.1 \(ii\)](#) allows hearing panels to impose “a fine not exceeding the greater of: [...] (ii) an amount equal to three times the profit obtained or loss avoided by such person as a result of committing the violation”. MFDA hearing panels often ordered global monetary sanctions, which explicitly made reference to disgorgement.

The current New SRO enforcement practice is to identify, using the best efforts as are reasonable in the circumstances of the case, the amount of any monies obtained directly or indirectly as a result of the contravention and specifically categorise that as a separate line item in the sanctions section of a settlement agreement or when making submissions at a sanctions hearing. As a result, more disciplinary decisions now reflect disgorgement as a separate penalty item.

Difference between Disgorgement and Restitution

There is an important legal distinction between “disgorgement” and “restitution”.

Disgorgement refers to the concept that a wrongdoer should not benefit in any way from their improper conduct. Where direct or indirect financial benefits (or losses avoided) can be determined, those amounts should be “disgorged” from the wrongdoer irrespective of any loss to specific parties. Disgorgement is generally payable to the regulator.

⁶ Fines are regulatory penalties imposed for breaches of New SRO Rules to deter wrongful conduct.

⁷ The [Sanction Guidelines](#) provide:

It is a fundamental tenet that wrong-doers should not benefit from their wrong-doing. Accordingly, in cases where the respondent benefited financially from the misconduct, the sanction, where possible, should include a disgorgement of the amount of any such financial benefit. Financial benefit would include any profits, commissions, fees, or any other compensation or other benefit received by the respondent, directly or indirectly, as a result of the misconduct. Financial benefit may include any loss avoided as a result of the misconduct.

Restitution, on the other hand, refers to a payment made as compensation to an aggrieved individual. Restitution recognizes that one party has benefitted at the expense of the other. A restitution order is typically made out in the name of, and enforced by, the harmed party.

Therefore, under the proposed program disgorgement would be paid to New SRO and would not be paid directly to an investor. An amount equal to some or all of the loss suffered by an investor would be paid from the disgorged funds by New SRO, via the Administrator, to the investor.

The distinction is important in terms of how expectations of the program are managed. For example, in a scenario where an investment advisor made an unsuitable trade recommendation which caused significant client losses (e.g., \$50,000) and charged a commission of \$250 for the trade, the investment advisor at the conclusion of a disciplinary proceeding might be fined a monetary amount (e.g., \$10,000) to deter such conduct in the future and also ordered to disgorge the commission of \$250. Paying the disgorgement amount of \$250 to the aggrieved investor would represent only a small portion of what the investor had actually lost (\$50,250). What the investor really wants is compensation for all their losses. It will, therefore, be important to clearly convey that, as part of this program, amounts ordered to be disgorged may not be of the same order of magnitude as investor losses. The logical extension of the program, from the investor perspective, may be to have *any* monetary sanction (e.g., an imposed fine of \$10,000) made available to satisfy investor losses. This also is not envisioned under the program.

See **Appendix A** for more details on disgorgement ordered and amounts collected in IIROC proceedings.

Claim Eligibility

One further challenge is to determine which investors would participate in the distribution of the disgorged funds. Enforcement cases are brought for regulatory purposes (e.g., stopping misconduct and preventing future harm) and will not necessarily identify all harmed investors, either because there are too many to run an efficient investigation or hearing, or because including every complainant in enforcement proceedings would otherwise be impractical. The Working Group considered, among other issues, whether:

- only investors who participate in a disciplinary hearing should be eligible to receive payments from disgorged amounts,
- there should be a minimum threshold of investor losses to be eligible to participate,
- a refusal to participate in the disciplinary hearing would preclude an aggrieved investor (with provable losses) from receiving funds from the disgorged amounts.

Based on the examples available in other jurisdictions and New SRO's existing practices, the Working Group recommends that the class of eligible investors be limited by the parameters of a particular enforcement action (i.e., relevant time periods, issues raised in the proceeding, etc.) and other investors, whose claims are not directly connected to the misconduct proven in the enforcement proceeding, would not be able to participate. The core mandate of New SRO enforcement proceedings is to determine whether there has been a breach of regulatory requirements and to order sanctions that will act as specific and general deterrence to ensure that the conduct is not repeated (which is different from restitution and investor compensation).

A class of potential investors eligible for the program could therefore be identified as part of the enforcement process, likely at the investigation stage. Whether or not these individuals complained to New SRO or provided witness testimony at the disciplinary hearing, they may be eligible to receive payments under the program if they satisfy the eligibility criteria, which will be determined at the claim assessment and distribution stage, as discussed below.

To begin with, the respondent in a New SRO disciplinary proceeding, either an individual advisor or a firm, must be found liable for the misconduct, i.e., there must be a causal link between the activity for which the respondent is found liable (and by extension, the respondent's gain) and the investor's loss.

Therefore, to be eligible for payments from disgorgement funds collected under the program, an investor must have (**Eligible Investor**):

- suffered a direct, provable, and quantifiable financial loss as a result of the misconduct that led to the disgorgement order,
- not directly or indirectly benefited from or engaged in the misconduct that led to the disgorgement order, and
- not received compensation for the same loss from other sources.

Collection of Funds

One of the important features of this program is that it would be premised on collection of funds by New SRO. This would facilitate the process for Eligible Investors, particularly where it may be difficult to pursue collection (e.g., registrant is subject to other proceedings or sanctions and/or has limited resources etc.).

An advisor or a firm who has been ordered to pay disgorgement must have the funds or exigible assets available to satisfy a disgorgement order. Even with the New SRO ability to register a sanctions decision as an order of the court, if the respondent has no or limited assets to satisfy the order, there may be no disgorged funds available for distribution.

As a practical matter, if the advisor or the firm wishes to remain, or re-register in the investment industry, any outstanding financial penalties (including disgorgement) must be satisfied as a prerequisite. The problem of collection occurs where the advisor/firm has left the industry or no longer cares about ongoing registration or re-registration.

Hence, it is only when the funds are received by New SRO that they would become available for distribution under the program.

C. Program Administration & Distribution of Disgorged Amounts

Program Administrator

As discussed above, given the nature and goals of enforcement proceedings, the Working Group recommends that the administration of investor claims and distribution of disgorged funds under the program be conducted outside of the New SRO enforcement processes.

The Working Group also recommends that the program be administered by designated employees of New SRO, either as a separate group or drawn from different departments, performing the role of a centralized Administrator. The Administrator would be responsible for assessing the claims and overseeing the distribution of disgorged funds to aggrieved investors.

New SRO Office of the Investor

On August 3, 2021, the Canadian Securities Administrators (CSA) published the [CSA Position Paper 25-404 – New Self-Regulatory Organization Framework \(CSA Position Paper\)](#). The CSA Position Paper proposed the establishment of a single New SRO through the consolidation of the MFDA and IIROC with the goal of providing enhanced capital markets regulation in the public interest. The CSA Position Paper proposed specific solutions to best achieve the CSA targeted outcomes. One such outcome was the establishment of “a separate investor office within New SRO that is prominently positioned and identified and supports policy development and is easily identifiable and accessible to investors.”

As a result, the [Office of the Investor](#) was established under New SRO. The Working Group proposes that the Office of the Investor act as the liaison between investors and the Administrator of the program.

Treatment of Disgorged Funds in the New SRO Restricted Fund

Currently, amounts collected as disgorgement in New SRO disciplinary proceedings go into the [New SRO Restricted Fund \(RF\)](#) along with the money collected from fines and settlements. The RF has been established for specific purposes provided for in Appendix A, Section 16 to the [New SRO Recognition Orders \(RO\)](#).

Historically, disgorgement amounts were included in global fines. Their collection and accounting treatment, therefore, was the same as fines, i.e., recorded in the RF as other amount collected through enforcement proceedings and used for the purposes enumerated in the RO.⁸

Under the New SRO RO, “monetary sanctions” include disgorgement. The New SRO RO clarifies and confirms the treatment of disgorged amounts as a RF type of funds. As such, disgorged funds can be designated as a stand-alone category of funds that could be segregated and accounted for separately in the RF, as would be required for distribution purposes under this proposal.

Use of the Restricted Fund for Distribution to Harmed Investors

The RF can be used only for the purposes enumerated in the RO, which do not include payments to harmed investors.⁹ Specifically, the RF may be used only for the following purposes:

Use of Monetary Sanctions

⁸ Costs of enforcement are also typically sought at the end of a disciplinary proceeding and may be granted by a hearing panel. Collected enforcement costs are recorded as revenue in New SRO’s operating fund, not the RF.

⁹ [CSA Staff Notice of Approval 25-307 - Recognition of New Self-Regulatory Organization of Canada: Appendix A - Recognition Order for the New SRO](#), s. 16.

16.

(1) All Monetary Sanctions collected by the New SRO may only be used, directly or indirectly, in the public interest as follows:

(a) as approved by the governance committee,

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

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

(iii) for specific funding related to a whistleblower program, provided that any such use does not constitute normal course operating expenses,

(iv) 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

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

or

(b) for reasonable costs associated with the administration of New SRO's investor office, investor advisory panel and New SRO's hearings.

(2) The process to allocate such Monetary Sanctions must be fair and transparent.

The New SRO RO requires approvals to use the RF for the purposes not specifically listed in the RO. The Working Group therefore recommends seeking approvals from the Governance Committee of the New SRO Board of Directors and the CSA for the use of the funds designated as “disgorgement” under the RF for the purpose of making payments to investors eligible under the proposed program.¹⁰

Setting Aside the Disgorgement Funds Collected for Distribution

To maintain the segregation of the disgorged funds, they should be set aside in the RF as “disgorgement payable” per individual case until their distribution.

Funds collected in installments should be first allocated to satisfy the disgorgement order and, after a reasonable amount is collected, may be distributed to investors on a *pro rata* basis.

Notice to Eligible Investors & Public Transparency

As discussed above, the group of Eligible Investors would be limited to those who suffered direct financial losses as a result of the contravention giving rise to the disgorgement. After New SRO collects disgorged funds, the Administrator would provide notice to all known Eligible Investors advising them that they may participate in the distribution process and provide them with a roadmap of the

¹⁰ *Ibid*, s. 16 (1)(a)(v).

application process and next steps. The notice would be sent to the potential claimants' last known addresses.¹¹

The Administrator may also give public notice on New SRO's website and/or news media.¹² The purpose of the public notice is two-fold, to provide notice to identified potential claimants who may not otherwise be reachable, as well as and to bolster transparency and raise awareness about the program.

If the Eligible Investor group is easily identifiable and rather small, direct notice will likely be more effective, although public notice may still be warranted to provide information about the case and transparency about the process. Broader public notice may be required where it is impossible or difficult to reach identified investors, e.g., the group may be very large, with individuals residing in different jurisdictions, or where their addresses and/or circumstances have changed.

It is critical that any individual or public notice be very specific and clear as to the limits of the program and disgorgement ordered and collected by New SRO in each particular case so as not to create unreasonable expectations for individuals who would *not* be eligible to receive a payment through the program.

Application Process

Eligible Investors would receive information on how to apply to receive payment from the disgorged funds. The application process should be well defined, setting out the parameters necessary to confirm claimant's identity, eligibility to participate, and the amount of any fees, commissions, or other amounts they paid to their advisor or firm relating to the contravention.

A standard application form and a guide on how to apply should be provided, in plain language and easily accessible (e.g., attached to the notice and made available online). A notice should also set out a deadline by which an application has to be submitted to New SRO.

Eligible Investors would be able to opt-in to the program within a set period of time from the date of the notice. The application deadline may be set between 30 to 90 days from the date of the notice, subject to the Administrator's discretion, depending on the particular group of investors and anticipated complexity of the distribution process.¹³ If an application is not submitted within the deadline, the claimant would not be able to participate in the distribution process.

Administrative Costs

Costs incurred by the Administrator performing administrative functions, e.g., costs of providing notice to investors, administration and payment out of claims, will constitute operating expenses and could be

¹¹ E.g., based on the records obtained through enforcement investigations or otherwise available to New SRO.

¹² At the Administrator's discretion, news outlets of general circulation and/or social media may be used, depending on the circumstances and likely location of potential claimants in each case.

¹³ This information could be set out in the Office of the Investor section of the website.

covered from the general RF account. An approval to use the RF for this purpose would be required in addition to the RF's use for distributing funds to harmed investors under the RO (as discussed above).

In rare cases, where distribution could not be carried out in-house and requires extraordinary costs, e.g., a court-appointed receiver or outside counsel to carry out a large distribution, the Administrator should have discretion to off-set such costs from the disgorged funds or not to pursue the distribution if anticipated costs would significantly deplete the funds available for distribution. If extraordinary costs are drawn from the disgorged funds, they would have priority in the distribution process but must be accounted for and reasonable.¹⁴

Claim Assessment

After the application deadline, the Administrator would review all applications received to determine their eligibility and assess the total amount of all eligible claims.

To make a claim through the program, in addition to the eligibility criteria discussed above, Eligible Investors would need to provide sufficient documentation confirming their identity, proving the amount of their claim, and disclosing any other proceedings they may have pursued to recover the same losses¹⁵ (**Eligible Claimants**).

The Administrator would determine the net disgorged funds available for distribution by assessing:

- the amount of disgorged funds collected, and
- any extraordinary administrative costs that may be deductible from the disgorged funds.

If the net disgorged amount available for distribution is equal to or exceeds the total value of all eligible claims, then Eligible Claimants would receive the full amount of their claims.

If the net disgorged amount available for distribution is less than the total value of the eligible claims, then the available amount would be distributed on a *pro rata* basis among the Eligible Claimants.

At the end of the assessment process, the Administrator would advise all claimants whether their claim is accepted and how much they would receive on distribution of the funds.

If a claim is rejected or a claimant disagrees with the amount of their entitlement, a claimant would be able to request, within 30 days, that the Administrator reconsider the amount of their entitlement.

Parallel Recovery

The Complainants Research showed that investors may not fully understand the limited recovery that may be available to them through a distribution of disgorged amounts and how that may affect their

¹⁴ Providing accounting would typically be a term of the court order appointing a receiver or an external administrator.

¹⁵ This would not disentitle investors from participating in the program but prevent a possible double recovery, as discussed below.

recovery of the remainder of their losses from other sources.¹⁶ It is critical that the information about the program clearly explains that acceptance of a payment from the disgorged funds distributed through the program would not disqualify investors from seeking out or receiving fuller compensation through other means.

Investors entitled to payment under the program would not be prevented from bringing a civil claim in court or seeking compensation through other avenues (e.g., private settlement, OBSI, arbitration) for other losses arising from the same conduct.

To prevent double recovery, investors who receive payment from the disgorged funds under the program would be required to disclose the amount recovered through the program and would not be entitled to collect these amounts in any other proceedings.

Similarly, if Eligible Investors successfully recover the corresponding amounts or a portion through other avenues, they would not be entitled to a payment related to the same loss under the program.

Distribution

The distribution of the funds would proceed after the application deadline when all claims have been considered and all reconsideration requests have been addressed.

The Administrator should have discretion not to pursue the distribution in cases where the net disgorged amount is small or administrative costs exceed the amount of potential recovery available to Eligible Claimants.

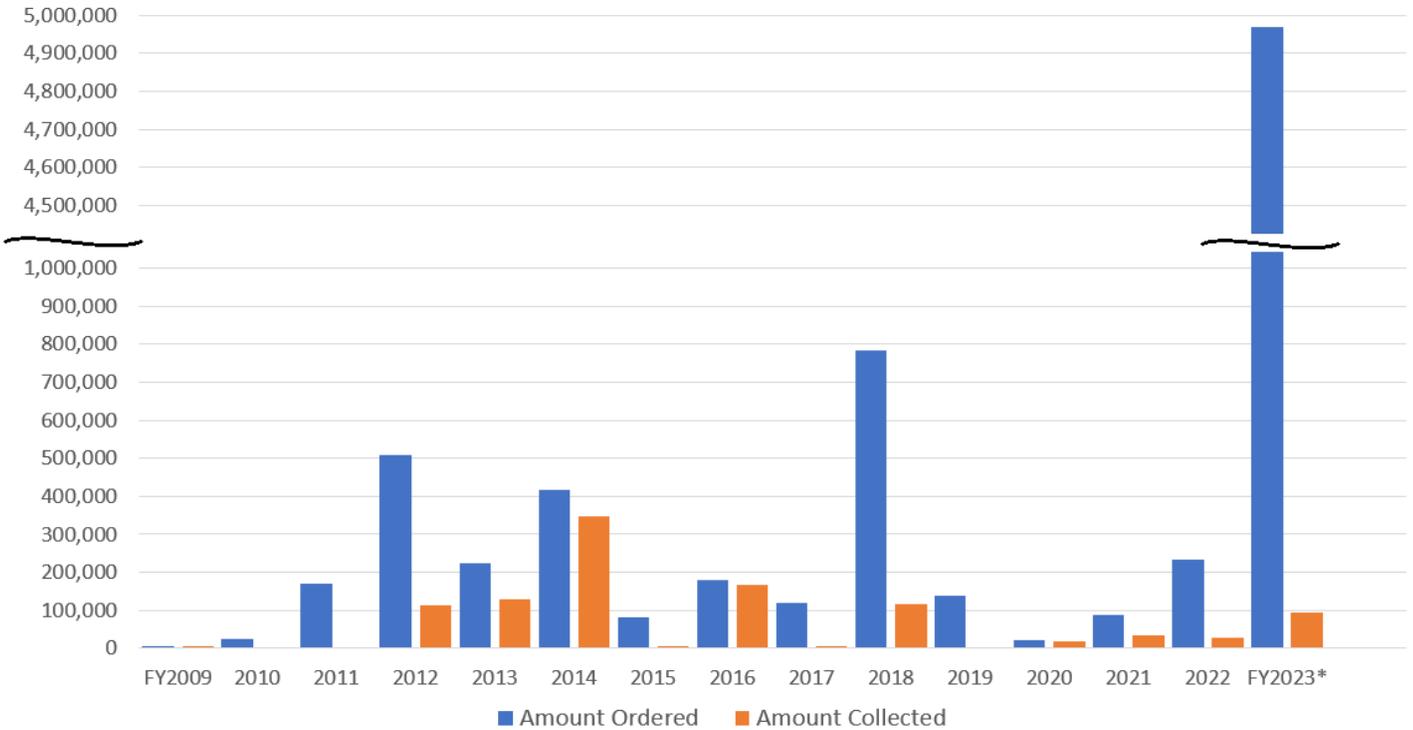
Residual Amounts

It is possible that, after reasonable efforts, Eligible Investors may not be reached or decide not to partake in the distribution process. Any amounts not claimed after the distribution would be recognized as revenue in the RF becoming part of the general RF account and may be used, in the public interest, for the purposes listed in the RO.

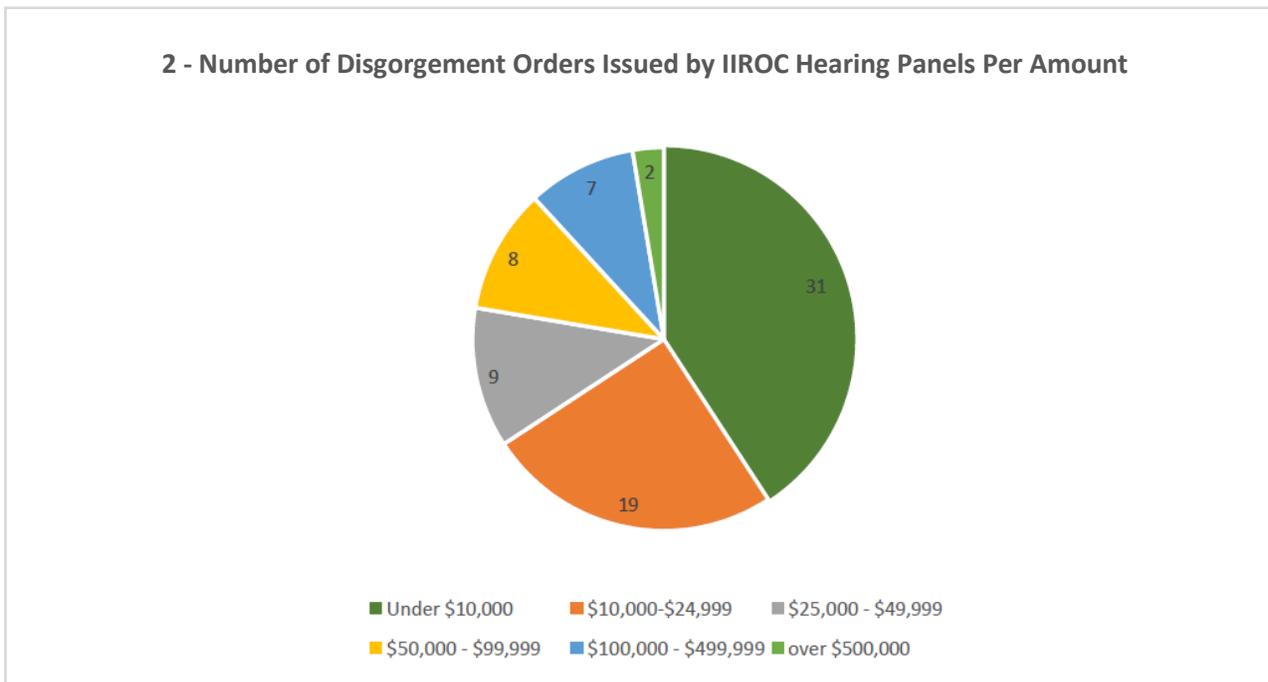
¹⁶ *Supra* p. 3, [Complainants Research](#), pp. 45 – 47.

APPENDIX A

1. Disgorgement Ordered and Amounts Collected by IIROC Enforcement



*fiscal year to date (April 1, 2022 – December 31, 2022)



3 - Average Disgorgement Ordered and Amounts Collected by IIROC Enforcement by Fiscal Year

Fiscal Year	# of disgorgement orders	Total amount ordered	Average amount per disgorgement order	Total amount collected
2009	2	\$4,500.00	\$2,250.00	\$0.00
2010	1	\$24,576.00	\$24,576.00	\$4,500.00
2011	2	\$170,787.50	\$85,393.75	\$0.00
2012	13	\$507,402.58	\$39,030.97	\$35,689.88
2013	6	\$222,273.73	\$31,753.39	\$172,110.28
2014	12	\$416,472.97	\$34,706.08	\$374,997.29
2015	3	\$80,813.00	\$26,937.67	\$14,067.80
2016	4	\$180,283.89	\$45,070.97	\$0.00
2017	5	\$118,011.00	\$23,602.20	\$6,511.00
2018	5	\$785,035.00	\$157,007.00	\$281,366.67
2019	3	\$138,682.75	\$46,227.58	\$1,333.33
2020	3	\$21,742.00	\$7,247.33	\$19,742.00
2021	4	\$89,351.00	\$22,337.75	\$33,000.00
2022	8	\$234,336.87	\$29,292.108	\$22,682.72
2023*	6	\$4,969,146.44	\$828,191.07	\$100,377.44
	TOTAL	\$7,963,414.73	\$1,403,623.87	\$1,066,378.41

4 - Disgorgement Orders Issued by IIROC Hearing Panels by Fiscal Year

Fiscal Year	Respondent	Disgorgement Amount Ordered	Disgorgement Amount Collected
FY 2009	Beauchamp, Marc-Antoine	\$2,250.00	\$2,250.00
FY 2009	Niding, André	\$2,250.00	\$2,250.00
FY 2010	Georgakopoulos, Konstantinos	\$24,576.00	\$0.00
FY 2011	Kasten-Brown, Mary	\$787.50	\$787.50
FY 2011	Kent, Linda	\$170,000.00	\$0.00
FY 2012	Beechey, Matthew	\$1,399.88	\$1,399.88
FY 2012	Budnik, Jason Nicholas	\$77,000.00	\$77,000.00
FY 2012	Bush, Allan Mansfield	\$2,000.00	\$2,000.00
FY 2012	Chrabalowski, Radoslaw Andrzej	\$522.00	\$522.00
FY 2012	Cornacchia, Rocco Tony	\$1,768.00	\$1,768.00
FY 2012	Delcourt, James Darren	\$14,747.78	\$14,747.78
FY 2012	Dennis, James Charles	\$291,855.14	\$0.00
FY 2012	Gareau, Kenneth	\$47,383.00	\$0.00
FY 2012	Harding, Randy William	\$17,861.00	\$0.00
FY 2012	Northern Securities Inc.	\$1,768.00	\$1,768.00
FY 2012	Phillips, Melaney	\$10,350.00	\$0.00
FY 2012	Stewart, James Alexander	\$14,747.78	\$13,937.32
FY 2012	Wilson, Brian Vaughan	\$26,000.00	\$0.00

FY 2013	Beaulne, Benoit	\$1,490.72	\$0.00
FY 2013	Beck, Gary	\$3,315.00	\$0.00
FY 2013	Dalpe, Marc	\$75,000.00	\$75,000.00
FY 2013	Lann, Ronald	\$80,000.00	\$0.00
FY 2013	Milette, Jean-Marc	\$52,468.00	\$52,468.00
FY 2013	Moran, Stephen	\$10,000.00	\$0.00
FY 2014	Biduk, Roger Michael	\$25,000.00	\$0.00
FY 2014	Canaccord Genuity Corp.	\$310,000.00	\$310,000.00
FY 2014	Chiu, Wayne	\$2,000.00	\$2,000.00
FY 2014	Dirani, Wasseem	\$3,100.00	\$3,100.00
FY 2014	Dubois, Daniel	\$10,724.00	\$2,154.80
FY 2014	Floyd, Charles Bruce	\$5,860.00	\$0.00
FY 2014	Groome, Reginald Alfred	\$24,198.00	\$0.00
FY 2014	Jacobsen, Ivan	\$2,096.00	\$0.00
FY 2014	Jacobsen, Keith	\$2,096.00	\$0.00
FY 2014	Keenan, Harrison Fitzgerald	\$4,398.97	\$4,398.97
FY 2014	Kochan, Donald Alexander	\$13,000.00	\$13,000.00
FY 2014	Raby, Guylaine	\$14,000.00	\$14,000.00
FY 2015	Gaudreault, Jean-Yves	\$3,000.00	\$0.00
FY 2015	Steer, Douglas Terrence	\$71,000.00	\$0.00
FY 2015	Steinhoff, Carolann	\$6,813.00	\$6,813.00
FY 2016	Alboini, Victor Philip	\$167,700.00	\$167,700.00
FY 2016	Armstrong, Norman Robert Todd	\$3,979.89	\$0.00
FY 2016	Duchaine, Steve	\$5,004.00	\$0.00
FY 2016	Orr, Roy William	\$3,600.00	\$0.00
FY 2017	Austin, Jeremy Nicholas Drew	\$60,000.00	\$0.00
FY 2017	Desautels, Daniel	\$2,084.00	\$2,084.00
FY 2017	Haller, Kurt Andrew	\$29,500.00	\$0.00
FY 2017	Janmohamed, Nadir	\$22,000.00	\$0.00
FY 2017	Walker, Jeffery	\$4,427.00	\$4,427.00
FY 2018	Bugden, David	\$12,000.00	\$12,000.00
FY 2018	Milne, Anne	\$3,000.00	\$3,000.00
FY 2018	Noronha, Jayanth	\$669,500.00	\$0.00
FY 2018	Scotia Capital Inc.	\$100,000.00	\$100,000.00
FY 2018	Wood, James	\$535.00	\$0.00
FY 2019	Rudensky, Andrew Paul	\$25,923.00	\$0.00
FY 2019	Sadeghi, Aidin	\$9,111.75	\$0.00
FY 2019	Tassone, Alberto	\$103,648.00	\$0.00
FY 2020	De Cicco, Lelio	\$3,500.00	\$3,500.00
FY 2020	Gravitas Securities Inc.	\$16,242.00	\$16,242.00

FY 2020	Winer, Philip	\$2,000.00	\$0.00
FY 2021	Jones, Alvin Rupert	\$500.00	\$0.00
FY 2021	Desmarais, Christian	\$30,000.00	\$30,000.00
FY 2021	Jenkins, Dean Martin	\$55,450.00	\$0.00
FY 2021	Black, Merlyn	\$3,401.00	\$3,401.00
FY 2022	Drose, Alfred	\$112,171.00	\$0.00
FY 2022	Debus, Joseph	\$10,000.00	\$0.00
FY 2022	Harris, James Robert	\$15,000.00	\$15,000.00
FY 2022	Plentai, Milan	\$6,170.00	\$6,170.00
FY 2022	Bélisle, Philippe	\$12,600.00	\$0.00
FY 2022	Hanson, Scott Andrew	\$1,111.72	\$1,111.72
FY 2022	Shields, Yonathan Chanoch	\$64,054.80	\$0.00
FY 2022	Tsao, Howard	\$13,229.35	\$6,000.00
FY 2023	Bealer, Gregory Paul	\$17,269.00	\$0.00
FY 2023	Brown, James	\$32,785.72	\$32,785.72
FY 2023	Langlois, Lyle	\$32,785.72	\$32,785.72
FY 2023	St. Pierre, Marc Leon	\$4,840,000.00	\$0.00
FY 2023	DiCostanzo, Neil	\$17,500.00	\$0.00
FY 2023	Sweeney, Tiffany	\$28,806.00	\$28,806.00
Total		\$7,963,414.73	\$1,066,378.41

5 - Disgorgement Orders Issued by IIROC Hearing Panels by Amount Ordered

Fiscal Year	Respondent	Disgorgement Amount Ordered	Disgorgement Amount Collected
FY 2023	St. Pierre, Marc Leon	\$4,840,000.00	\$0.00
FY 2018	Noronha, Jayanth	\$669,500.00	\$0.00
FY 2014	Canaccord Genuity Corp.	\$310,000.00	\$310,000.00
FY 2012	Dennis, James Charles	\$291,855.14	\$0.00
FY 2011	Kent, Linda	\$170,000.00	\$0.00
FY 2016	Alboini, Victor Philip	\$167,700.00	\$167,700.00
FY 2022	Drose, Alfred	\$112,171.00	\$0.00
FY 2019	Tassone, Alberto	\$103,648.00	\$0.00
FY 2018	Scotia Capital Inc.	\$100,000.00	\$100,000.00
FY 2013	Lann, Ronald	\$80,000.00	\$0.00
FY 2012	Budnik, Jason Nicholas	\$77,000.00	\$77,000.00
FY 2013	Dalpe, Marc	\$75,000.00	\$75,000.00
FY 2015	Steer, Douglas Terrence	\$71,000.00	\$0.00
FY 2022	Shields, Yonathan Chanoch	\$64,054.80	\$0.00
FY 2017	Austin, Jeremy Nicholas Drew	\$60,000.00	\$0.00
FY 2021	Jenkins, Dean Martin	\$55,450.00	\$0.00
FY 2013	Milette, Jean-Marc	\$52,468.00	\$52,468.00

FY 2012	Gareau, Kenneth	\$47,383.00	\$0.00
FY 2023	Brown, James	\$32,785.72	\$32,785.72
FY 2023	Langlois, Lyle	\$32,785.72	\$32,785.72
FY 2021	Desmarais, Christian	\$30,000.00	\$30,000.00
FY 2017	Haller, Kurt Andrew	\$29,500.00	\$0.00
FY 2023	Sweeney, Tiffany	\$28,806.00	\$28,806.00
FY 2012	Wilson, Brian Vaughan	\$26,000.00	\$0.00
FY 2019	Rudensky, Andrew Paul	\$25,923.00	\$0.00
FY 2014	Biduk, Roger Michael	\$25,000.00	\$0.00
FY 2010	Georgakopoulos, Konstantinos	\$24,576.00	\$0.00
FY 2014	Groome, Reginald Alfred	\$24,198.00	\$0.00
FY 2017	Janmohamed, Nadir	\$22,000.00	\$0.00
FY 2012	Harding, Randy William	\$17,861.00	\$0.00
FY 2023	DiCostanzo, Neil	\$17,500.00	\$0.00
FY 2023	Bealer, Gregory Paul	\$17,269.00	\$0.00
FY 2020	Gravitas Securities Inc.	\$16,242.00	\$16,242.00
FY 2022	Harris, James Robert	\$15,000.00	\$15,000.00
FY 2012	Delcourt, James Darren	\$14,747.78	\$14,747.78
FY 2012	Stewart, James Alexander	\$14,747.78	\$13,937.32
FY 2014	Raby, Guylaine	\$14,000.00	\$14,000.00
FY 2022	Tsao, Howard	\$13,229.35	\$6,000.00
FY 2014	Kochan, Donald Alexander	\$13,000.00	\$13,000.00
FY 2022	Bélisle, Philippe	\$12,600.00	\$0.00
FY 2018	Bugden, David	\$12,000.00	\$12,000.00
FY 2014	Daniel, Dubois	\$10,724.00	\$2,154.80
FY 2012	Phillips, Melaney	\$10,350.00	\$0.00
FY 2013	Moran, Stephen	\$10,000.00	\$0.00
FY 2022	Debus, Joseph	\$10,000.00	\$0.00
FY 2019	Sadeghi, Aidin	\$9,111.75	\$0.00
FY 2015	Steinhoff, Carolann	\$6,813.00	\$6,813.00
FY 2022	Plentai, Milan	\$6,170.00	\$6,170.00
FY 2014	Floyd, Charles Bruce	\$5,860.00	\$0.00
FY 2016	Duchaine, Steve	\$5,004.00	\$0.00
FY 2017	Walker, Jeffery	\$4,427.00	\$4,427.00
FY 2014	Keenan, Harrison Fitzgerald	\$4,398.97	\$4,398.97
FY 2016	Armstrong, Norman Robert Todd	\$3,979.89	\$0.00
FY 2016	Orr, Roy William	\$3,600.00	\$0.00
FY 2020	De Cicco, Lelio	\$3,500.00	\$3,500.00
FY 2021	Black, Merlyn	\$3,401.00	\$3,401.00
FY 2013	Beck, Gary	\$3,315.00	\$0.00
FY 2014	Dirani, Wasseem	\$3,100.00	\$3,100.00
FY 2018	Milne, Anne	\$3,000.00	\$3,000.00
FY 2015	Gaudreault, Jean-Yves	\$3,000.00	\$0.00

FY 2009	Beauchamp, Marc-Antoine	\$2,250.00	\$2,250.00
FY 2009	Niding, André	\$2,250.00	\$2,250.00
FY 2014	Jacobsen, Ivan	\$2,096.00	\$0.00
FY 2014	Jacobsen, Keith	\$2,096.00	\$0.00
FY 2017	Desautels, Daniel	\$2,084.00	\$2,084.00
FY 2012	Bush, Allan Mansfield	\$2,000.00	\$2,000.00
FY 2014	Chiu, Wayne	\$2,000.00	\$2,000.00
FY 2020	Winer, Philip	\$2,000.00	\$0.00
FY 2012	Cornacchia, Rocco Tony	\$1,768.00	\$1,768.00
FY 2012	Northern Securities Inc.	\$1,768.00	\$1,768.00
FY 2013	Beaulne, Benoit	\$1,490.72	\$0.00
FY 2012	Beechey, Matthew	\$1,399.88	\$1,399.88
FY 2022	Hanson, Scott Andrew	\$1,111.72	\$1,111.72
FY 2011	Kasten-Brown, Mary	\$787.50	\$787.50
FY 2018	Wood, James	\$535.00	\$0.00
FY 2012	Chrabalowski, Radoslaw Andrzej	\$522.00	\$522.00
FY 2021	Jones, Alvin Rupert	\$500.00	\$0.00
TOTAL		\$7,963,414.72	\$1,066,378.41