

January 30,2023

Investment Industry Regulatory Organization of Canada  
General Counsel's Office  
Suite 2000, 121 King Street West Toronto, ON M5H 3T9

**Re: Review of the IIROC Arbitration Program**

I appreciate this opportunity to comment on the recommendations included in the Working Group Review of the IIROC Arbitration Program (the Review). I wish to commend the Working Group on the quality of the Review and most particularly on the clear and concise summary it provides of the current financial dispute resolution landscape in Canada and the U.S. This summary highlighted for me the unnecessary complexity of financial dispute resolution procedures in our country at this time. I was disappointed, therefore, that instead of addressing this fundamental shortcoming the Review made recommendations that, if adopted, would result in more duplication, more fragmentation, and more complications in a system that retail investors already find difficult to navigate.

I do appreciate that the timing of the Review, predating as it did the establishment of NewSRO, precluded the Working Group from using a wider lens both to consider the current state of financial dispute resolution and to frame its recommendations. With NewSRO now in place, overseeing both IIROC and MFDA members, and the likelihood that its regulatory purview will expand over time, I encourage the Working Group to withdraw the Review and reformulate the current recommendations that, in today's new regulatory context, do not seem to be sufficiently broad or ambitious. I encourage the Working Group to devise bolder recommendations that are designed to promote a multi-tiered national financial dispute resolution framework that integrates the roles of both OBSI and NewSRO in a way that is complementary and not duplicative or redundant.

Based on the summary included in the Review, I commend the FINRA model as a potential template with OBSI offering the mediation component, NewSRO providing the mediation component and the courts, as they do today, acting as the ultimate arbiter, if necessary. The achievement of this outcome, particularly with regard the integration of OBSI and NewSRO dispute resolution practices and standards, will require an historically unprecedented level of coordination and cooperation among regulators and legislators. However, unprecedented initiatives are necessary if the Working Group is intent on reducing the “considerable confusion among investors when it comes to the regulatory and dispute resolution landscape”; a confusion that the Working Group correctly attributes, at least in part, to the absence of a single centralized complaint system.

Furthermore, the time is ripe for bold action. The combination of the recent establishment of the NewSRO; the review of OBSI’s governance structure that is now underway; and the broad and growing recognition among investors, industry and regulators that current financial dispute resolution practices and outcomes are inadequate create an environment where disruptive change is both necessary and, more importantly, possible. I urge the Working Group to take advantage of this opportunity to put forward recommendations that will promote the evolution of a more efficient and more effective integrated dispute resolution framework that will benefit all stakeholders in Canada’s financial markets.

Sincerely,

*Harvey S. Naglie*

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