Enforcement Report 2019

Public Interest Regulator

Protecting Investors and Supporting Healthy Canadian Capital Markets

IIROC
Investment Industry Regulatory Organization of Canada

OCRCVM
Organisme canadien de réglementation du commerce des valeurs mobilières

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About IIROC

The Investment Industry Regulatory Organization of Canada (IIROC) is the pan-Canadian self-regulatory organization (SRO) responsible for the oversight of Canada's investment dealers, as well as trading activities on debt and equity marketplaces in Canada.

IIROC is one part of the Canadian securities regulatory framework. This consists of 10 provincial and three territorial securities regulators [collectively the Canadian Securities Administrators (CSA)], which oversee IIROC.

IIROC's regulatory mandate is to set and enforce high-quality regulatory and investment industry standards, protect investors and strengthen market integrity while supporting healthy capital markets. IIROC pursues this mandate by developing, testing for compliance with and enforcing a broad spectrum of member and market proficiency, conduct and prudential rules.

All investment dealers (also referred to as Dealer Members) and Canadian marketplaces overseen by IIROC are subject to a rigorous regulatory approval process. Individuals wanting to work at Dealer Members in specific roles must satisfy all of IIROC's proficiency requirements and be assessed as "fit and proper". As part of their professional development, they must complete a mandatory number of continuing education requirements every two years.

The Role of Enforcement

IIROC's Enforcement Department (Enforcement) is responsible for the enforcement of IIROC's Dealer Member rules (DMRs), relating to the sales, business and financial conduct of its Dealer Members and their registered employees, as well as the Universal Market Integrity Rules (UMIR) relating to the trading activity on all Canadian debt and equity marketplaces.

Enforcement plays a key role in IIROC's pursuit to protect investors and support healthy capital markets across Canada. Enforcement works with IIROC's other departments (including Complaints & Inquiries, the various compliance groups, Trading Review & Analysis, and Registration) to ensure timely identification, investigation and prosecution of regulatory misconduct, as well as the detection and pre-emptive disruption of potential misconduct.

Enforcement must be:

FAIR	IIROC's enforcement process is fair and impartial. Prosecutions are based on thorough investigations; hearings are transparent and conducted by impartial hearing panels, chaired by legal professionals.
EFFECTIVE	Enforcement aims to promote compliance within the investment industry by sending strong regulatory messages that deter potential wrongdoers and helps to build investor confidence in the Canadian capital markets.
TIMELY	Timely investigation and prosecution of misconduct protects investors and strengthens the public's confidence in self-regulation.

Message from Senior Vice-President, Registration and Enforcement

I am pleased to present the 2019 Enforcement Report. It is an opportunity for IIROC to look back on our past year's activities and achievements and update the public on our key priorities. Enforcement has made significant progress this year, both in the cases pursued and advancing our strategic initiatives.

Enforcement is committed to pursuing serious cases and sending a strong message to help deter future wrongdoing. The cases pursued in 2019 addressed a variety of misconduct, some novel, across a broad spectrum of regulatory obligations (all of which are further discussed in Enforcement Activities and Case Highlights).

Our continued resolve to pursue serious misconduct, particularly cases where investors were harmed, in part explains the increase in contested matters that remain ongoing. As a result, you will see that the number of cases completed are lower this past year – yet the volume of prosecutions initiated remains consistent with previous years. I want to thank the entire IIROC Enforcement team for their hard work, diligence and determination in identifying misconduct, and pursuing cases that ensure wrongdoers are held accountable by disciplinary sanctions imposed to appropriately reflect the severity of the misconduct.

In addition to our core work, we continue to advance our strategic initiatives. Most recently, in December 2019, New Brunswick became the fifth province to provide IIROC with the full enforcement toolkit (fine collection, authority to collect and present evidence, and statutory immunity). We now have fine collection authority in all provinces and territories except for one remaining province in the Atlantic. We will continue to work with governments and securities commissions across Canada to secure a consistent level of protection for investors regardless of where they live.

Moving forward, we are also taking steps toward implementing new initiatives that would make our Enforcement team more flexible and responsive, and would enable us to better support investors who suffer losses. One initiative has been our Alternative Forms of Discipline proposal that aims to provide a more-tailored, proportionate and timely approach to Enforcement matters at IIROC. We are still in the public consultation phase of this initiative, but hope to see its implementation later in 2020.

I could not complete my year in review, and my look ahead, without expressing my gratitude to the multiple stakeholders with whom we work. We simply would not have the level of success in Enforcement without our relationships with them, including investor organizations, the Canadian Securities Administrators and their provincial and territorial governments, as well as insurance regulators with whom we collaborate to close gaps in the system.

Together, we can continue to protect investors and help them meet their financial goals while at the same time protecting the integrity of Canada's capital markets.

Elsa Renzella
Senior Vice-President, Registration and Enforcement

Enforcement Activities

This year marked an increased number of contested matters. While the number of prosecutions initiated was relatively stable compared to previous years, contested matters almost doubled (from 8 to 14). Many hearings remain ongoing as of April 2020 and will continue into Fiscal Year 2020, thus explaining the decline in the number of completed prosecutions.

Enforcement pursued a variety of cases, including novel trading and gatekeeping cases. However, suitability continued to be a core focus, representing approximately a third of prosecutions and all matters reviewed by Case Assessment. Seniors and vulnerable clients remain a key demographic for IIROC, representing one quarter of matters reviewed and almost a third of prosecutions.

Trading and market-related cases also figured prominently in Enforcement's work this past year, with several novel issues identified. For example, we pursued a case relating to the propriety of trading allocations of new issue shares by a firm's pro-inventory account. A second, similar prosecution started in 2019 and will continue into 2020. Enforcement also received a quick resolution in a matter involving three investment firms that highlighted the importance of transparency and entering trading on a marketplace[1]. We also prosecuted two individuals for failing to meet their gatekeeping obligations related to suspicious trading by a group of related clients and insiders of two issuers.

Critical partners in identifying and investigating market cases are IIROC's Surveillance teams (both equity and debt), Trading Review & Analysis (TR&A) and Trading Conduct Compliance (TCC). Enforcement works closely with these groups to ensure effective oversight of the Canadian marketplaces.

Where IIROC detects any potential market-related violations by clients of IIROC-regulated firms, we refer such matters to the relevant Canadian Securities Administrators (CSA) jurisdiction. Both Enforcement and TR&A also work with CSA jurisdictions on matters of mutual interest. In 2019, TR&A referred 41 market-related cases to the CSA: [Manipulation (20), Insider Trading (12) and other Securities Act Violations (9)].

[1] RBC Dominion Securities et al 2019 IIROC 30

Selected Case Highlights

CONFIDENTIAL INFORMATION

KINGSDALE CAPITAL MARKETS INC. (NOW REGENT CAPITAL PARTNERS INC.) AND CAMERON RICHARD PRANGE (Settlement)

- Toronto, Ontario
- Failure to Enforce policies and procedures regarding confidential information: DMR 38.1 and UMIR 7.1
- Kingsdale Capital Markets Inc.: Fine of $45,000 / Costs of $5,000
- Prange: Fine of $40,000 / Permanent bar of approval for acting as UDP or in a supervisory capacity

Kingsdale Capital Markets Inc. (Kingsdale) advised four public companies on corporate finance transactions. Cameron Prange, the Ultimate Designated Person (UDP) of the firm, and other employees became aware of potentially material, confidential information regarding those issuers prior to any public announcement. Kingsdale and Prange did not follow the firm's policies and procedures regarding the receipt and containment of confidential information, nor did they take steps to ensure that other employees did so.

Kingsdale had confidential non-public information about the four companies and failed to add them to its grey list[2], or added them late (between seven and 21 days after learning of the confidential information). In one case, pro-trading was permitted in securities of an issuer on Kingsdale's grey list without the trade being identified and questioned for possible insider trading. As UDP, Prange was obligated to supervise the compliance activities of the firm and to promote compliance but failed to do so in this case.

In accepting the Settlement Agreement, the hearing panel noted that the conduct was serious but not willful. The conduct was the result of a failure to give adequate attention to the rules and regulations, including policies and procedures developed by Kingsdale in compliance with IIROC rules. The hearing panel also noted that although there was some benefit to the firm, no clients suffered harm. The impugned activity did not generate meaningful profit with respect to two issuers, there was no pro-trading with respect to a third issuer, and the fourth issuer was on the grey list but not flagged as it should have been when the order was placed.

[2] See Glossary of Terms for definition.

Selected Case Highlights

MACKIE RESEARCH CAPITAL CORPORATION AND PATRICK BYRNES MCCARTHY (Settlement)

- Toronto, Ontario
- Failure to Enforce policies and procedures regarding confidential information: DMR 38.1
- Failure to Comply with policies and procedures regarding receipt and containment of confidential information: DMR 29.1
- Mackie: Fine of $180,000 / Costs of $20,000
- McCarthy: Fine of $100,000 / Suspension of approval for 1 month / Completion of the Partners, Directors and Senior Officers Course within 12 months / Costs of $5,000

Shortly after joining Mackie Research Capital Corporation (MRCC), Patrick McCarthy became involved in assisting an issuer, XYZ, which was known to be looking to expand its investor base, improve liquidity, and potentially require financing to fund these initiatives.

At the same time, MRCC's corporate finance group proposed a bought deal offering to XYZ. McCarthy was not a member of MRCC's corporate finance group and did not work on corporate finance transactions as part of his ordinary duties. That proposal and several others were rejected but, ultimately, MRCC and XYZ entered into an agreement for a bought deal, which was publicly announced shortly thereafter.

Prior to the announcement of the deal, McCarthy continued to engage in his marketing activities for XYZ. During the course of those activities, XYZ management emailed information that should have alerted McCarthy to the fact that he had received confidential information. Following its receipt, McCarthy should have alerted MRCC's Compliance Department that he received confidential information about a public company (as required by MRCC's policy), giving the Compliance Department the ability to determine how to respond.

MRCC failed to adequately consider McCarthy's role in sales and marketing activities that could potentially expose him to confidential information, and failed to implement appropriate safeguards in this respect. Based on communications with McCarthy, senior MRCC representatives should have known about his exposure to confidential information and should have placed him on the appropriate watch list[3]. By failing to implement sufficiently robust controls, the firm was unable to appropriately monitor the activities of those outside of the corporate finance group, with respect to XYZ.

[3] See Glossary of Terms for definition.

DISCRETIONARY TRADING

DAVID JOHN REID AND CHRISTOPHER MARK REID (Settlement)

- St-John, New Brunswick – BMO Nesbitt Burns Inc.
- Discretionary Trading: DMR 1300.4 and 1300.5
- David Reid: Fine of $40,000 / Prohibition of approval for 30 months / 12 months of close supervision / Rewrite the Conduct and Practices Handbook (CPH) Course / Costs of $2,500
- Christopher Reid: Fine of $30,000 / Prohibition of approval for 16 months / 6 months of close supervision / Rewrite the CPH Course / Costs of $2,500

David and Christopher Reid, father and son, worked as a team at BMO Nesbitt Burns.

Starting in 2012, David Reid proposed discretionary account management to clients without informing his son. In 2014, when Christopher Reid noticed the large quantity of trade tickets submitted by David Reid for execution, he questioned David. His father acknowledged that he was not communicating with all clients before submitting the trade tickets for execution. Christopher agreed to have the accounts continue in this manner.

At the time of this activity, David Reid did not have IIROC approval to manage discretionary accounts. Christopher Reid was approved as a portfolio manager years after the activity began (as of October 2017), but he never practiced in that capacity during his employment at BMO Nesbitt Burns. None of the client accounts in question were authorized as discretionary accounts by the firm.

Over a four-year period, Christopher and David Reid executed at least 7,000 discretionary trades in approximately 100 client accounts. They also engaged in conduct to avoid detection by BMO Nesbitt Burns' Compliance Department, including spacing out the trades over the course of months rather than executing large volumes of trades over a short period of time, which may have been an indicator that clients had not been contacted.

Selected Case Highlights

IMPROPER TRADING

CARLOS MANUEL VARGAS (Settlement)

- Toronto, Ontario – Global Maxfin Capital Inc. & Chippingham Financial Group Inc.
- Improper trading activity: DMR 29.1
- Fine of $620,000, inclusive of disgorgement / 1 year suspension of approval / 6 months of close supervision / Costs of $50,000

Carlos Vargas engaged in improper trading activity by obtaining allocations of new issues to trade for his firm's own pro-trading or personal trading accounts. He did this when he knew or ought to have known that he had no – or limited – retail demand for the new issues.

Vargas held dual roles at his firm as both the head of syndication and trading. As the head of syndication, he would request allocations of new issues. The purpose of obtaining the allocations should have been to distribute the shares to retail investors. Instead, Vargas would trade the allocations in his inventory or personal trading account in order to profit. Vargas' practice was to obtain allocations of new issues for which he had no realistic retail demand. He would receive these allocations at the "drawdown price", which is the retail price of the new issue less the commission given to the firm for distributing the shares to its retail clients. After receiving an allocation, Vargas would sell short the corresponding number of shares in the marketplace to generate cash proceeds and to lock in profits.

New issues are intended for broad retail distribution, therefore Vargas obtained these issues with the understanding that he would distribute them to retail clients. Instead, he engaged in a trading practice he knew or ought to have known was improper. Vargas was required to disgorge all financial benefits from the improper trading activity.

MARKET MANIPULATION & GATEKEEPING FAILURES

REMO COSTA (Disciplinary Hearing)

- Montreal, Quebec – JitneyTrade Inc.
- Market Manipulation by "Spoofing": UMIR 2.2
- Fine of $25,000 / Suspension of access for 6 months / Prohibition on approval in any capacity for 6 months / Rewrite the CPH Course / Costs of $15,000

Remo Costa, a director and client of JitneyTrade Inc., engaged in manipulative and deceptive activities on IIROC-regulated marketplaces, contrary to UMIR 2.2. Over a two-month period, Costa positioned himself on both sides of the market 20 times for five securities. On each occasion, the orders entered

improved the "Best Ask" or the "Best Bid", as the case may be. He entered both bona fide orders to the market, which he intended to execute, as well as non-bona fide orders, which were destined to be canceled in order to create a layering effect. According to UMIR Policy 2.2, Part 2(f), "entering an order or a series of orders for a security that are not intended to be executed" is deemed to constitute a deceptive or manipulative trading activity.

The IIROC hearing panel concluded that, as an experienced trader, Costa knew or ought clearly to have known that the entry of the orders in question would create, or could reasonably be expected to create, a false or misleading appearance of trading activity. The hearing panel emphasized that the small amount of the gains realized by Costa were not relevant to whether the practice was manipulative or deceptive. The panel further stated that the UMIR rule is intended to prevent deceptive or manipulative trading activities, whether the resulting gains are large or small, because of their "deleterious effects" on the integrity of the market and investor confidence.

DARREN CARRIGAN AND JASON GOLD (Settlement)

- Toronto, Ontario – Hampton Securities Ltd.
- Gatekeeper responsibilities: UMIR 2.1(1)
- Carrigan: Fine of $50,000 / Rewrite the Trader Training Course / Costs of $7,500
- Gold: Fine of $20,000 / Rewrite the Trader Training Course / Costs of $7,500

Darren Carrigan and Jason Gold, advisors at Hampton Securities Ltd., facilitated suspicious trading by a group of related clients and insiders of two TSXV-listed issuers. The suspicious trading was carried out through three accounts at Hampton and retail accounts held at another, unrelated firm. Carrigan and Gold were not aware of the accounts held at the unrelated firm.

The suspicious activity consisted of uneconomic trading in two illiquid securities. The orders in question were received on an unsolicited basis by an insider of the issuers or by a family member of an insider. There were frequent deposits of large quantities of securities certificates of the two issuers, followed by a subsequent sale. The related clients engaged in frequent same-day trading (including trading on opposite sides of the market), which sometimes resulted in no economic benefit. The numerous red flags generated by the trading should have caused Carrigan and Gold to question the trading. At a minimum, they should have sought an explanation from their clients about the trading's legitimacy. By failing to be alert to the red flags and failing to make inquiries, Carrigan and Gold failed to fulfill their gatekeeper obligation to prevent suspicious or potentially manipulative and deceptive trading.

Selected Case Highlights

PERSONAL FINANCIAL DEALINGS & OUTSIDE BUSINESS ACTIVITIES

ANDREW PAUL RUDENSKY (Disciplinary Hearing; Appeal dismissed)

- Toronto, Ontario – Richardson GMP Limited
- Personal Financial Dealings and False and Misleading Representation: DMR 43 and 29.1
- Fine of $30,000 / Disgorgement of $25,923 / Rewrite the CPH Course / Suspension of approval for 2 years / Costs of $24,500

In April 2015, Richardson GMP (RGMP) was involved in a bought deal offering which became Pro Eligible. To fund his participation in the Pro Eligible offering, Andrew Rudensky approached a RGMP client, RS, for a $3 million loan.

RS agreed to loan the funds by way of an unsecured promissory note. Rudensky agreed to repay the principal and provide RS with 70% of the gross profit made on the short sale and Pro Eligible purchase transactions.

Rudensky's supervisor questioned him about the source of the $3 million. He responded that the funds were a loan and falsely stated that it was collateralized against his condo (something that was discussed with RS but which never materialized). Rudensky also did not disclose the profit-sharing arrangement or the identity of the lender – two key features of the loan arrangement.

Rudensky proceeded with the transaction (selling short and covering his short position with the shares at the discounted price available through the Pro Eligible offering). He then repaid the client $3 million plus USD$44,000 as agreed upon.

The hearing panel found that by entering into the profit sharing and loan arrangement, Rudensky created an actual or potential conflict of interest between the client and himself as well as the client and the firm. The panel also found the statements to the supervisor to be false and misleading. It further noted that the "failure to provide true and complete disclosure prevents a firm from being able to fulfil its obligations to respond to existing or potential conflicts of interest."

Rudensky applied to the Ontario Securities Commission for a hearing and review of both the decision on the merits and the sanctions and costs. The review of both decisions were dismissed.

ALBERTO TASSONE (Disciplinary Hearing; Hearing and Review allowed in part)

- Vancouver, British Columbia – Raymond James Ltd.
- Outside business activity and misleading information to IIROC Staff: DMR 18.14 and 29.1
- Fine of $75,000 / Disgorgement of financial benefits of $103,648 / Suspension of approval for 12 months / Close supervision of 6 months on any re-approval / Costs of $80,000

Alberto Tassone was involved in a business proposition to acquire an interest in certain oil and gas wells in Texas. Tassone provided funds to acquire an interest in a trust. The trust then used those funds to acquire the sole interest in a limited partnership, which then used the funds to acquire interests in various oil and gas wells. The interests in the oil and gas wells produced revenue, which was eventually distributed back up through this ownership structure to Tassone and other investors.

Tassone became a director of one of the corporations and an initial trustee of the trust used in the investment structure. Tassone was, for some time, the President of the General Partner of the limited partnership. He opened and operated bank accounts from which certain operating costs and investor returns were paid. He also used his firm's address as his mailing address for the venture. Tassone benefitted from the structure by receiving investment returns, directly and indirectly.

During his initial interview with IIROC, he misled Enforcement Staff about his ownership interest in the structure and his sister's participation in the structure.

During the initial IIROC disciplinary hearing, the panel concluded that Tassone did not engage in unauthorized outside business activities as it was a single passive investment. However, on appeal, the British Columbia Securities Commission (BCSC) found that the IIROC hearing panel had committed an error of law in finding no breach. The BCSC concluded that it was not necessary to establish Tassone "managed" the outside business activity in order to establish a breach of IIROC rules.

The matter was referred back to the IIROC hearing panel to consider whether the activities were approved by the firm. The IIROC hearing panel concluded that the activity was not disclosed and not approved by the firm.

Selected Case Highlights

SUITABILITY

PRESTON SMITH (Settlement)

- Calgary, Alberta – Richardson GMP Limited
- Suitability and Know Your Client: DMR 1300.1(a) and (q)
- Fine of $100,000 inclusive of disgorgement / Prohibition on approval for 2 ½ years / Close supervision for 12 months / Rewrite the CPH Course / Costs of $5,000

Preston Smith made recommendations to 10 clients, all aged in their mid-50s to mid-70s and all of whom were investing to fund their impending or existing retirement. His recommendations were to invest in a number of corporate debentures among other high-risk investments. In most cases, Smith was overseeing the majority, if not all, of the clients' liquid assets.

Smith incorrectly thought the debentures were low-risk investments and many of the clients thought they were purchasing low risk bonds. However, the debentures were in fact high-risk, being illiquid, speculative investments. After his firm warned Smith that these debentures were high-risk, he continued recommending the debentures to his clients. Over a two-year period, he earned $65,355 in commissions on the sale of the debentures to these clients. Concentrated holdings in TSX Venture issuers, the oil and gas sector, and the industrial sector all exacerbated the risk in the accounts.

When the firm's Compliance Department noted instances where clients' investments were outside the risk tolerances and objectives identified in their New Client Account Forms (NCAFs), Smith increased the risk tolerances to match their high-risk holdings. In some instances, high-risk allocations moved from between 20% and 30% to 90% and 100%. The clients incurred significant losses, some of whom received compensation from the firm.

SENIORS & VULNERABLE CLIENTS

LELIO DE CICCO (Settlement)

- Toronto, Ontario – Scotia Capital Inc.
- Suitability and Know Your Client: DMR 1300.1(a), (p) and (r)
- Fine of $60,000 / Disgorgement of $3,500 in commissions / Rewrite the CPH Course within 6 months / Strict supervision for 2 months / Costs of $3,000

Lelio De Cicco was the Registered Representative for a 90-year-old client whose son managed her account, as permitted by a Power of Attorney. The account was transferred to De Cicco after the client's previous advisor raised concerns about the son's short-term trading in the account.

De Cicco was aware of the former advisor's concerns about the son's trading activity and he himself had concerns from the outset. Notwithstanding, De Cicco did not contact the former advisor nor any member of his team for additional information. He did not have any substantive discussions with the client's son; most discussions were brief and by telephone.

During the relevant time in question, the majority of 180 trades were unsolicited. Although De Cicco asked the son to stop the trading in the account, he did not have any substantive discussions about suitability and trading in the account. The son circumvented De Cicco and placed orders with others in the branch.

Following questions from Scotia Capital's Compliance Department, De Cicco reduced the account's risk tolerance from 50% to 30%. Regardless, the account continued to carry an unacceptable level of risk, increasing from 51% to 82%. The son engaged in trading that was inherently risky, involving securities held for periods of between two to 14 days, and he engaged in speculative trading involving US dollar options. The account declined in value by approximately $94,000. Scotia Capital reimbursed the client for approximately $141,000, the total of which De Cicco ultimately returned to the firm.

FRANCESCO COCCIMIGLIO (Settlement)

- Toronto, Ontario
  – TD Waterhouse Canada Inc.
- Personal Financial Dealings: DMR 43
- Fine of $25,000 / Costs of $1,000

Francesco Coccimiglio was an advisor to an 85-year-old client with liquid assets of $1.6 million, limited investment knowledge and estranged from his family. Coccimiglio developed a close relationship with the client. He transferred the client's account from his responsibility to TD Direct Investing in order to become the client's Power of Attorney for Personal Care and for Property.

After Coccimiglio was no longer the client's advisor, he borrowed $200,000 interest-free from the client. He assisted the client with transferring the funds from the client's TD Waterhouse account to the client's bank account, from which the client wrote a cheque to Coccimiglio. He did not disclose the Power of Attorney or the loan to his firm. The client ultimately became uncomfortable with the Power of Attorney and revoked it, after which time Coccimiglio repaid the loan in full.

Enforcement's Strategic Initiatives

As IIROC commenced its 2020-22 Strategic Plan, Enforcement continued to advance its two key initiatives: strengthening IIROC's legal authority and protection; and developing alternative forms of disciplinary action. Both initiatives will enhance Enforcement's effectiveness and its ability to pursue credible action in a timely, responsible and robust manner using a variety of tools and remedies.

1. Strengthening IIROC's Legal Authority

For the past several years, IIROC has sought to strengthen its legal authority and enhance its protection across every Canadian jurisdiction. We specifically focused on acquiring the full enforcement toolkit, which consists of: (i) the authority to collect fines through the courts, (ii) expanded authority to collect evidence at the investigative and hearing stage; and (iii) statutory immunity for IIROC and its personnel when acting in the public interest.

FINE COLLECTION: The ability to collect fines through the court system sends a strong deterrent message by holding to account those who break the rules and subjecting them to penalties that can be collected by IIROC, regardless of whether they continue to be registered with IIROC or not. This authority enhances the credibility and integrity of IIROC's disciplinary process, as well as the sanctions imposed. Although IIROC generally collects all fines against Dealer Members, it is more challenging to collect fines from individuals. In 2019, IIROC collected approximately 29 per cent of penalties levied against individuals, nationally.

COLLECTION OF EVIDENCE: IIROC has taken steps to seek additional authority that would allow us to compel evidence during our disciplinary investigations and hearings. Without legislative amendments to relevant securities legislation, IIROC has no ability to obtain the cooperation of individuals and entities not regulated by us, even where they may have relevant evidence. Unfortunately, this imposes limitations on our ability to fully investigate certain cases and obtain the best evidence, and can tax the resources of our CSA partners.

STATUTORY IMMUNITY: IIROC is seeking statutory immunity for good faith performance of all its regulatory functions as part of its Recognition Orders set out by members of the CSA, which also includes actions taken by Enforcement. While there are limited common law protections, statutory immunity would ensure that IIROC and its employees have the same protection provided to the provincial securities commissions and other regulatory bodies. We strongly believe that this immunity is necessary to allow us to take appropriate regulatory action in the public interest, without fear of reprisal.

2019 ACCOMPLISHMENTS:

This past year, IIROC enhanced its enforcement toolkit in Saskatchewan and New Brunswick. In May 2019, Saskatchewan granted IIROC with legal authority to collect disciplinary fines through the court. It also granted IIROC the express right to appeal a decision of a disciplinary hearing panel to the Financial and Consumer Affairs Authority of Saskatchewan.

In December 2019, the Government of New Brunswick provided IIROC with the full enforcement toolkit.

IIROC now has successfully acquired fine collection authority in 12 of the 13 Canadian jurisdictions, with the full enforcement toolkit in five provinces (Alberta, Quebec, Nova Scotia, Prince Edward Island, and New Brunswick). We are thankful for the cooperation and support from provincial and territorial governments and from their respective commissions or regulatory agencies. We continue to seek all these measures in every province and jurisdiction so investors have a consistent level of protection regardless of where they live.

IIROC is committed to ensuring wrongdoers are held accountable for their actions, which includes making every reasonable effort to collect penalties imposed against them. Failure by a disciplined firm or advisor to pay a fine will result in immediate suspension until IIROC receives payment. In those jurisdictions where we have the legal authority to do so, we are taking active steps to register cases in the courts in order to pursue collection.

IIROC also publishes online an Unpaid Fines Report, which lists individual registrants who, since 2008, have failed to pay fines, disgorgement, and/or costs imposed resulting from disciplinary action.[4]

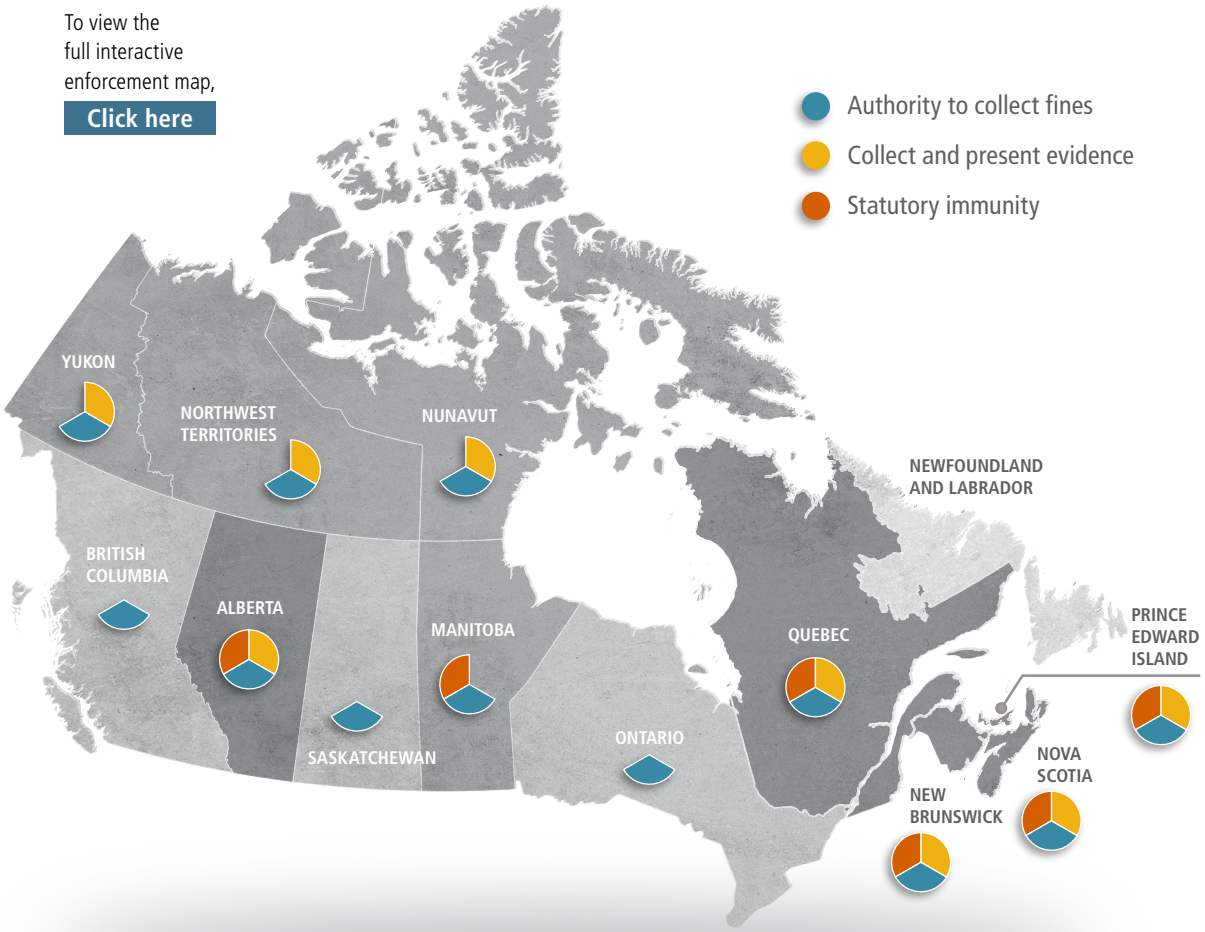
Where permitted, IIROC is also using its powers to obtain evidence during an investigation, which has already resulted in positive results including a successful prosecution before an IIROC hearing panel.

[4] Please note that the report intends to enhance transparency relating to IIROC's collection of fines and other monetary sanctions. It is not meant to be a list of individuals currently indebted to IIROC. Accordingly, the report may include the names of individuals who received a bankruptcy discharge subsequent to the order.

Enforcement's Strategic Initiatives

To view the full interactive enforcement map,

Click here



2. Alternative Forms of Disciplinary Action

It is important for Enforcement to be both strong yet fair in the execution of its mandate. To that end, over the past few years, IIROC has been considering alternative forms of disciplinary action that provide greater flexibility and result in a more responsive Enforcement Department. This would allow us to have the right complement of tools that ensure a properly tailored enforcement response that is firm, timely and proportionate to the circumstances.

On February 22, 2018, IIROC first published a Notice[5] requesting comments on two proposals to provide alternative forms of disciplinary action:

i. **A Minor Contravention Program ("MCP")** where an Approved Person or Dealer Member would agree to a fixed sanction for minor rule contraventions ($2,500 for individuals and $5,000 for firms). While the firm or individual would be required to admit a breach of IIROC rules, it would not form part of a formal disciplinary record nor would we publish their names. While not public, MCP matters would be monitored by IIROC and reported to the CSA to ensure there are no recurring breaches or patterns of wrongdoing. Having such a program would avoid the time and expense of a full disciplinary hearing while ensuring appropriate handling of minor offenses.

ii. **Early Resolution Offers ("ERO")** would facilitate settlement of cases at an earlier point in the enforcement process, once sufficient facts are known and certain conditions are present. This program seeks to encourage early cooperation from Respondents and provides an incentive for the firms or individuals involved to take corrective action and compensate any investors harmed. An ERO will represent Staff's best offer to settle a case by way of a reduced monetary penalty for firms or individuals that come forward and enter into a settlement agreement quickly, with minimal negotiation.

Following the comment period, IIROC held focus groups with a number of stakeholders and conducted a national survey of over 1,000 investors, who were generally supportive of IIROC's proposals. After considering these public comments, we revised the programs and provided further details, including proposed rule amendments, published in a second Request for Comments dated April 25, 2019.[6]

Three significant revisions to the proposed MCP were as follows:

1. Dealer Members were made ineligible for the MCP

2. The fine for individuals would be increased from $2,500 to $5,000

3. Each case resolved by the MCP would be approved in a streamlined process by a one-member hearing panel.

For EROs, we provided further clarity by specifying a 30% sanction reduction for those facing disciplinary action – giving Respondents a clearly defined understanding of the credit provided to them.

IIROC received 28 comment letters. We intend to publish our response to comments later this year.

[5] Notice 18-0045 – Request for Comment – Enforcement Alternative Forms of Disciplinary Action
[6] Notice 19-0076 – Request for Comment – Minor Contravention Program and Early Resolution Offers

Enforcement Statistics

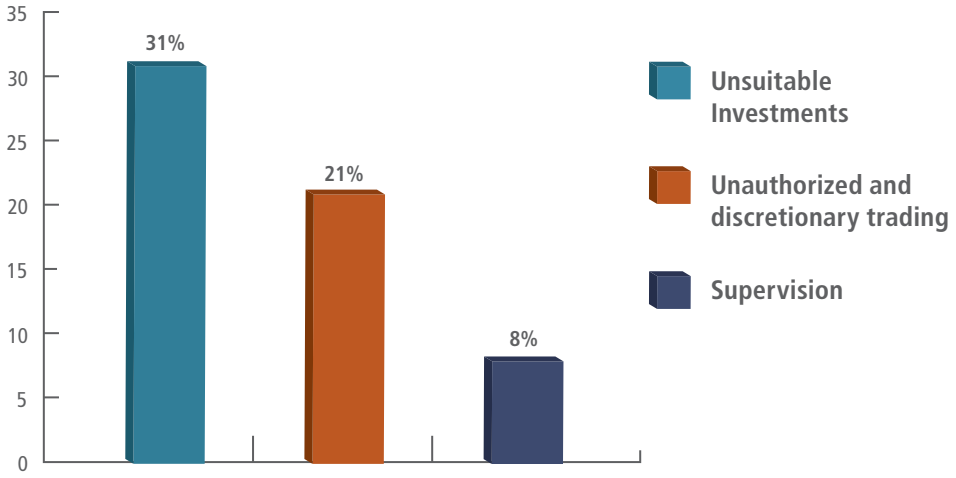
Complaints

Sources of Complaints Received by IIROC Enforcement

SOURCE	2019	2018	2017	2016	2015
Public	184	158	197	198	209
ComSet	921	866	903	1,207	1,076
Internal (from other IIROC departments)	21	40	41	32	43
Other SROs and Commissions	15	23	18	20	11
Other (media, Dealer Members and whistleblowers)	7	2	4	2	2
TOTAL	1,148	1,089	1,163	1,459	1,341

2019 Top 3 Complaints Reviewed by Case Assessment

Percent



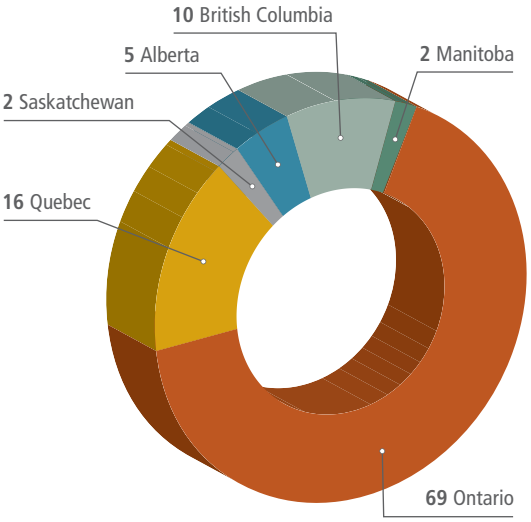
Investigations

Investigations Completed

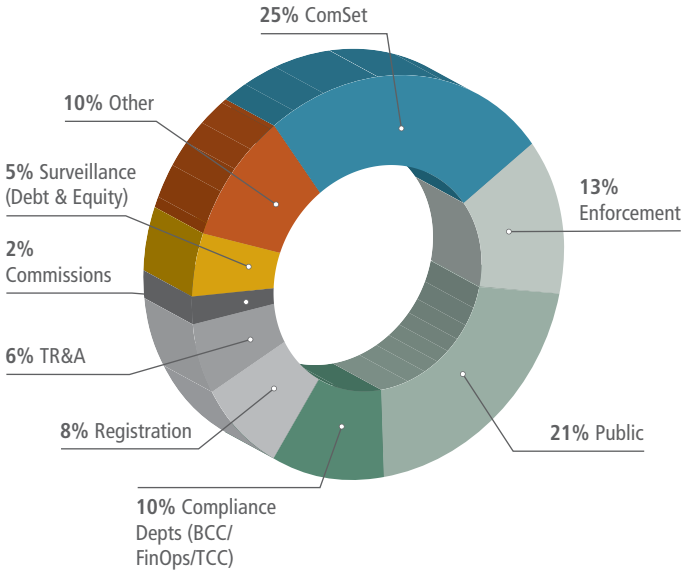
	2019	2018	2017	2016	2015
Number of Investigations completed	104	127	127	138	124
Percentage of files referred to Prosecutions	35%	40%	46%	46%	57%

Completed Investigations by Province

Total 104



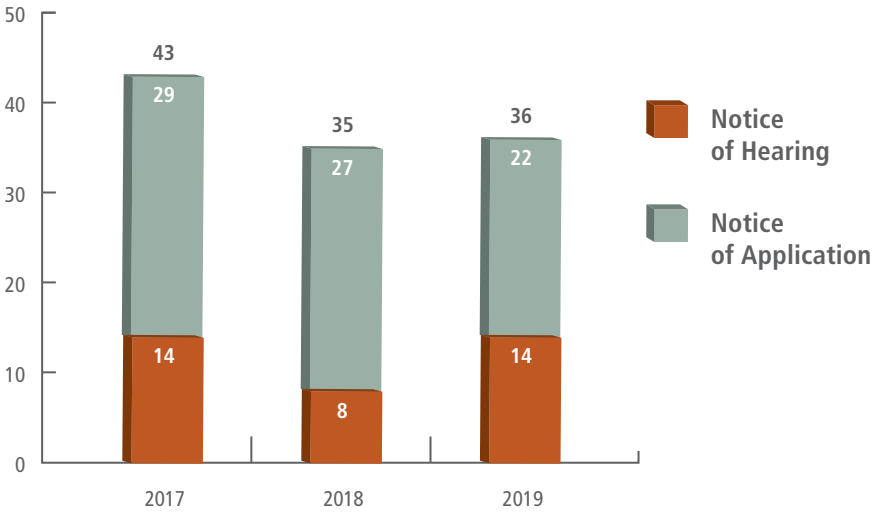
Investigations by Source (%)



Enforcement Statistics

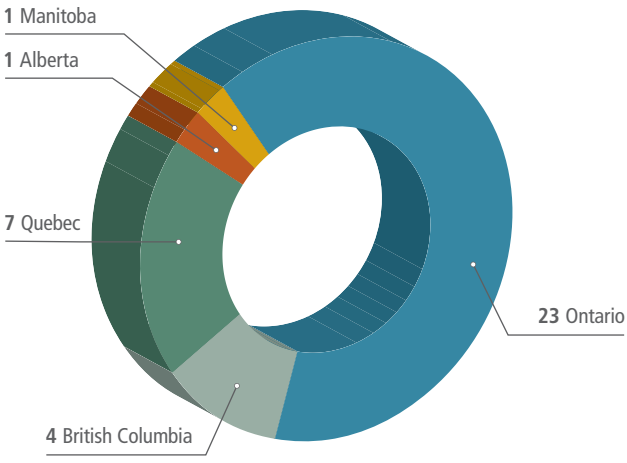
Prosecutions

Disciplinary Proceedings* Commenced



Completed Prosecutions** by Province

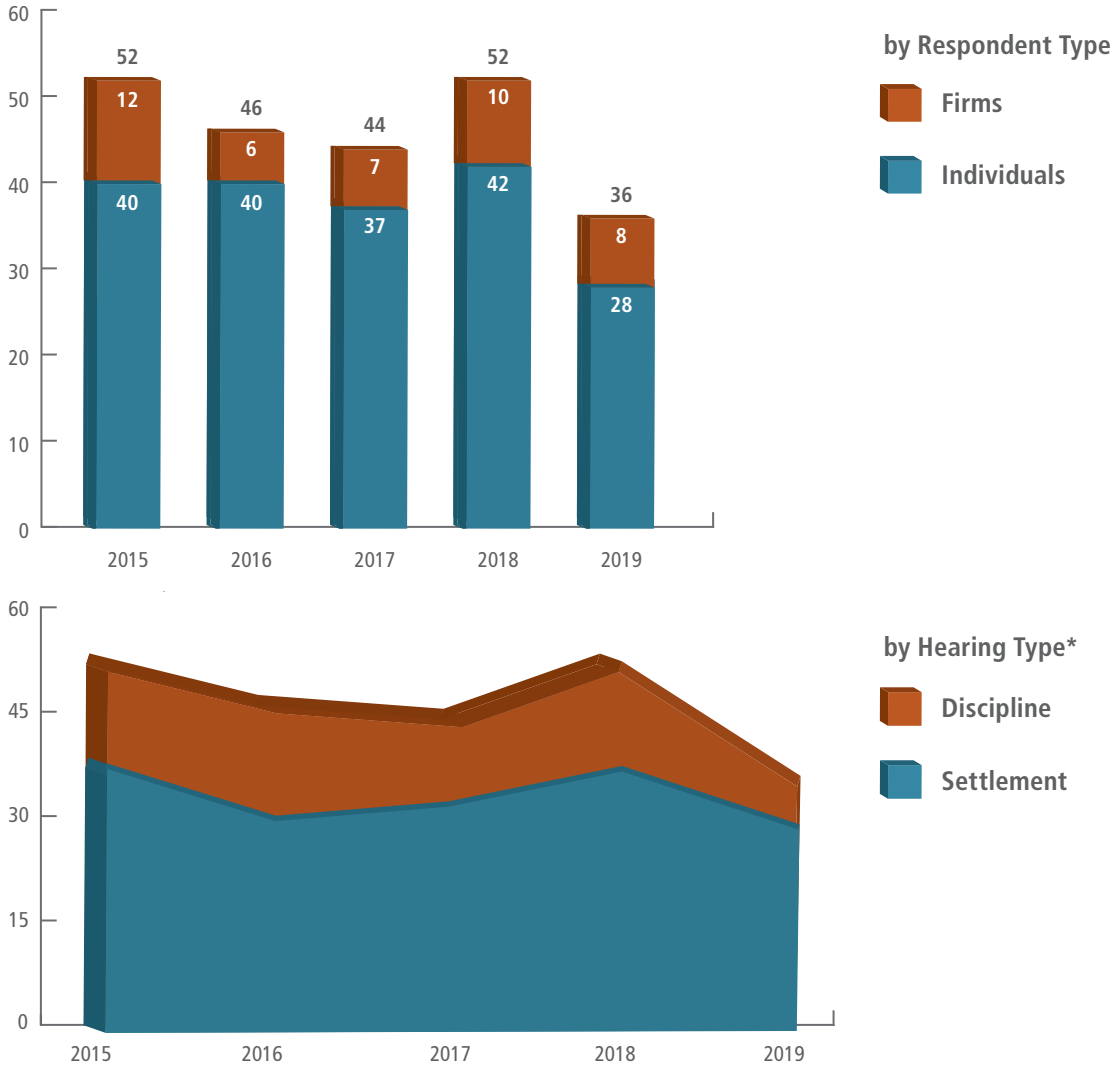
Total 36



*Contested hearings are initiated by a Notice of Hearing. Settlements are initiated by a Notice of Application.

**Prosecutions refer to completed prosecutions where an IIROC hearing panel, securities commission or court has made a final decision including any sanction ordered. Any decisions under appeal are not included.

Prosecutions by Respondent Type and Prosecutions by Hearing Type*



Appeals

In general, either a disciplined individual or IIROC Staff can appeal IIROC disciplinary decisions to the relevant provincial/territorial securities commission or applicable reviewing body. An appeal will involve a review of the merits of the liability and/or penalty decision. Where an appeal is dismissed, the original IIROC decision remains in effect, including the penalties imposed. In 2019, appeals were launched, argued and/or concluded in a number of matters:

- **Robert Crandall** (New Brunswick) – Appeal ongoing.
- **Andrew Paul Rudensky** (Ontario) – Appeal dismissed. IIROC Hearing Panel decision confirmed.
- **Joseph Debus** (Ontario) – Appeal ongoing.

*see Appendix D for description of Hearing types

Enforcement Statistics

Prosecutions

Prosecutions – by Regulatory Violation

INDIVIDUALS DISCIPLINED	2019	2018	2017	2016	2015
Complaint handling	1	0	0	0	0
Discretionary trading	5	5	3	10	9
Failure to cooperate	1	3	3	5	2
Forgery	1	0	3	0	5
Gatekeeper	2	0	0	0	4
Inappropriate personal financial dealings	2	12	7	7	6
Inadequate books and records	0	1	1	0	0
Misappropriation	0	0	0	4	1
Misrepresentation	2	1	1	3	5
Manipulation & deceptive trading	1	2	1	3	1
Off-book transactions	0	2	3	1	0
Outside business activities	0	4	1	4	2
Suitability/Due diligence/ Handling of client accounts	11	17	20	19	19
Supervision	2	4	4	7	5
Trading conflict of interest	0	2	2	0	2
Trading without appropriate registration	1	1	0	0	0
Unauthorized trading	2	4	3	7	6
Undisclosed conflict of interest	0	3	1	1	1
Other	4	2	0	0	0

FIRMS DISCIPLINED	2019	2018	2017	2016	2015
Capital deficiency	1	0	0	1	2
Failure to handle client accounts	0	1	0	1	0
Inadequate books and records	0	1	0	0	2
Internal controls	1	2	0	1	2
Protective order / Firm winding down	1	2	1	1	3
Supervision	2	7	6	4	8
Other	3	0	0	0	0

Sanctions Imposed

FIRMS	2019	2018	2017	2016	2015
Decisions	8	10	7	6	12
Fines	$1,775,000	$860,000	$830,000	$360,000	$1,495,000
Costs	$60,000	$55,500	$78,500	$65,000	$97,500
Disgorgement	$0	$0	$100,000	$0	$0
Total	$1,835,000	$915,500	$1,008,500	$425,000	$1,592,500
Permanent suspension	1	0	1	0	3
Termination	1	2	0	2	0
INDIVIDUALS					
Decisions	28	42	37	40	40
Fines	$1,595,000	$2,770,000	$2,265,000	$2,684,000	$2,283,000
Costs	$249,000	$340,000	$366,129	$412,000	$337,500
Disgorgement	$135,071	$133,712	$778,962	$24,084	$331,569
Total	$1,979,071	$3,243,712	$3,410,091	$3,120,084	$2,952,069
Suspension	14	21	16	20	26
Permanent bar	3	5	5	6	5
Conditions	22	21	22	21	23

Fine Collection Rates

The chart below sets out the percentages collected, to date, of fines assessed in a given year. Assessed fines do not include fines imposed during the year for cases that have been appealed or are still within the time period to appeal.

While we typically collect 100 percent of fines from firms, there are circumstances where firms do not pay, such as insolvency issues and/or suspension by IIROC. Firms that do not pay fines are no longer IIROC members in good standing.

	2019	2018
Individuals	29%	28%
Firms	97%	100%

Appendix A

Enforcement Process

Referrals

To Securities Commissions, other domestic or foreign regulators/agencies, police if there is evidence of criminal activity.

CASE ASSESSMENT

Initial review to determine whether there is sufficient evidence of a breach of IIROC's rules that warrants the opening of a formal investigation.

INVESTIGATIONS

Collection, review of relevant evidence relating to the case. If the evidence can establish a breach of IIROC's rules, the matter will be forwarded to prosecutions.

PROSECUTIONS

The initiation of formal disciplinary action against a Respondent (Dealer Member or individual registrant). The formal hearing will take place before an IIROC hearing panel, an expert administrative panel consisting of an independent chair from the legal community and two industry members.

DISCIPLINARY PROCEEDINGS

- **Contested Hearings**
- **Settlement Hearings**
- **Temporary Order Applications**
- **Protective Order Applications**

(For more information, go to Appendix D)

Internal Sources

Registration Department

Compliance Departments

[Business Conduct Compliance (BCC), Financial & Operations Compliance (FinOps), and Trading Conduct Compliance (TCC)]

Trading Review & Analysis (TR&A) / Market Surveillance

Complaints & Inquiries (C&I)

(For more information, go to Appendix C)

External Sources

Public Complaints & ComSet* Reports

Referrals from Outside Agencies

(Securities Commissions, other SROs, police and other agencies)

IIROC's Whistleblower Service

(For more information, go to Appendix C)

Close with no action or issue a Cautionary Letter

*IIROC rules require Dealer Members to report client complaints and disciplinary actions through IIROC's Complaint and Settlement Reporting System.

Use of Fines and Cost Awards

Generally speaking, all fines collected can only be used for the benefit of investors through education programs, the administration of disciplinary panels and/or the development of programs or systems to address emerging regulatory issues. See Fine Collection Rates on page 23 .

The Canadian Securities Administrators' Recognition Orders of IIROC require that all fines collected by IIROC can only be used for the above purposes.

Pursuant to IIROC Rules, IIROC cost awards are used to pay for any costs incurred by IIROC in relation to its investigations and hearings.

PENALTIES

If a Dealer Member or individual registrant is found to have violated IIROC rules, the following penalties may be imposed:

FIRMS	INDIVIDUALS
A reprimand	A reprimand
Fines, up to a maximum of $5 million per contravention or an amount equal to three times the profit made, or loss avoided	Fines, up to a maximum of $5 million per contravention or an amount equal to three times the profit made, or loss avoided
Imposition of conditions on membership	Imposition of conditions on registration
A period of suspension	A period of suspension
Expulsion	A permanent ban

Appendix B

IIROC Disciplinary Actions January 1 to December 31, 2019

INDIVIDUALS

Complaint Handling
Jacques Maurice

Discretionary Trading
Richard Shaw Newbury
Fernando Pace
Philip Winer
Christopher Mark Reid
David John Reid

Failure to Cooperate
Cynthia Nelson

Forgery
Philip Winer

Gatekeeper
Darren Carrigan
Jason Gold

Inappropriate Personal Financial Dealings
Andrew Paul Rudensky
Francesco Coccimiglio

Manipulation & Deceptive Trading
Remo Costa

Misrepresentation
Andrew Paul Rudensky
Clinton James Orr

Suitability/ Due Diligence/ Handling of Client Accounts
Colin George Graham Baird
William Alan Heakes
Richard Shaw Newbury
Barry Mosher
Preston Henry Smith
Sheron Crane (aka Lau)
Richard Hewat
Philip Winer
Jacques Maurice
Alykhan Kassam
Lelio De Cicco

Supervision
Christopher John Everest
Cameron Richard Prange

Trading Without Appropriate Registration
Shane Dubin

Unauthorized Trading
Richard Hewat
Jean-Pierre Paquette

Other
Carlos Manuel Vargas
(improper trading)
Alberto Tassone
(misleading IIROC Staff)
Sheron Crane (aka Lau)
(improper use of email)
Patrick Byrnes McCarthy
(improper handling of confidential information)

FIRMS

Capital Deficiency
Dominick Capital Corporation

Internal Controls
BMO Nesbitt Burns Inc.

Protective Order/ Firm Winding Down
Jacob Securities Inc.

Supervision
Mackie Research Capital Corporation
Kingsdale Capital Markets Inc.

Other
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.

Appendix C

Enforcement Information Sources

Enforcement cases are based on information drawn from a variety of internal and external sources.

INTERNAL SOURCES

Registration Department: On occasion, the circumstances surrounding the termination of an individual registrant requires further investigation.

Compliance Departments [Business Conduct Compliance (BCC), Financial Operations Compliance (FinOps), and Trading Conduct Compliance (TCC)]: Issues and deficiencies noted in compliance examination reports sometimes form the basis for some of Enforcement's most significant disciplinary cases.

Trading Review & Analysis (TR&A)/ Market Surveillance: The TR&A and Market Surveillance Departments oversee all equity and debt trading on Canadian marketplaces and serve as Enforcement's primary source of market-related enforcement cases.

Complaints & Inquiries Team (C&I): The C&I team is the primary contact for investor inquiries and complaints. Where alleged regulatory violations are suspected, C&I refers the majority of the complaints it receives to Enforcement for further assessment. C&I can be reached by phone (1-877-442-4322), email (InvestorInquiries@iiroc.ca) or by filing an online complaint form (www.iiroc.ca).

EXTERNAL SOURCES

ComSet Reports: IIROC rules require Dealer Members to inform IIROC when certain events occur by using IIROC's *Complaints and Settlement Reporting System (ComSet)*. These include written client complaints received by a Dealer Member; criminal charges against a Dealer Member or any of its individual registrants; or a securities-related civil claim brought by a client. These reportable events represent Enforcement's primary source of external enforcement-related information, and one of the most significant sources of enforcement cases.

Outside Agencies: Enforcement receives referrals from Canadian provincial securities regulators, international securities regulatory bodies and other public agencies, including law enforcement officials.

IIROC's Whistleblower Service: IIROC operates a Whistleblower Service designed to receive, evaluate and take prompt and effective action on information based on first-hand knowledge or tangible evidence of potential systemic wrongdoing, securities fraud and/or unethical behaviour by IIROC-regulated individuals or firms. The Whistleblower Service can be reached by phone (1-866-211-9001) or email (whistleblower@iiroc.ca).

Appendix D

Types of Disciplinary Proceedings

Following the completion of an investigation, Enforcement staff will assess the evidence collected and decide whether to prosecute a Dealer Member or individual registrant for a breach of IIROC rules. When deciding to prosecute, IIROC initiates a formal disciplinary action against the Dealer Member or individual registrant (both referred to as the Respondent in a disciplinary proceeding).

Formal disciplinary action will take the form of either a contested hearing or a settlement hearing.

CONTESTED HEARINGS

Where the Respondent does not admit to the alleged violation of IIROC rules, a contested hearing is held. Enforcement Staff must prove the allegations set out in the Notice of Hearing – the formal document that initiates disciplinary action. Similar to traditional court proceedings, an IIROC hearing involves Staff presenting documentary evidence and oral evidence, through witnesses, to make its case. The Respondent has the right to challenge IIROC's case by cross-examining witnesses and presenting evidence.

The hearing panel, which is normally comprised of one former judge and two active or retired industry members, decides whether IIROC has proven its case against the Respondent and if so, determines the appropriate penalty.

While IIROC generally does not have the legal authority to compel witnesses or Respondents to attend disciplinary hearings, a Respondent's failure to attend a hearing does not affect Enforcement's ability to proceed with the hearing. In these cases, the hearing will proceed in the Respondent's absence and the hearing panel may accept the allegations as proven without calling any formal evidence.

SETTLEMENT HEARINGS

In settlement hearings, Enforcement Staff and the Respondent agree, in writing, on the rule(s) violated by the Respondent, the underlying facts and the penalties for the agreed upon violations. The parties must present the agreement to the hearing panel and explain why the panel should accept it. The panel may accept or reject the settlement agreement.

Like many other professional regulatory bodies, the majority of IIROC's disciplinary matters are resolved by way of settlement.

Enforcement also has the ability to initiate two other types of proceedings: Protective Order Applications and Temporary Order Applications.

PROTECTIVE ORDER APPLICATIONS

Generally speaking, a protective order application is an emergency proceeding that permits Enforcement staff to quickly initiate a proceeding against a Respondent. The purpose of the proceeding is to protect investors in circumstances where the Respondent is not able to continue in business without contravening IIROC's rules. Typically, such circumstances include:

- Bankruptcy;
- Financial or operating difficulty of a Dealer Member; and
- Criminal charges laid against the Dealer Member or individual registrant.

At the conclusion of a protective order proceeding, the hearing panel has the authority to impose a variety of sanctions on the Respondent, similar to those available in the regular disciplinary process. Examples of potential sanctions include:

- The suspension of IIROC membership;
- A requirement to immediately cease dealing with the public; and
- A requirement to preserve books and records for a specified period of time.

TEMPORARY ORDER APPLICATIONS

Temporary order applications are another form of emergency proceeding, when Enforcement staff believe that the length of time required to convene a disciplinary hearing could be contrary to the public interest. A temporary order proceeding can be brought without prior notice to the Respondent. The order can either suspend the Respondent's registration with IIROC or impose terms and conditions on that registration. Temporary orders last for 15 days, after which time they can be extended by a hearing panel or by a securities commission.

Glossary of Terms

BEST ASK/BEST BID

The best ask is the lowest quoted price of a security that a seller is willing to offer. It is the most favourable ask price offered at a given time for a particular security. By contrast, the best bid is the highest price a buyer is willing to pay for a security at a given time.

COMSET (COMPLAINTS AND SETTLEMENT REPORTING SYSTEM)

IIROC requires firms to report client complaints and disciplinary actions, including internal investigations, denial of registration and settlements; and civil, criminal or regulatory actions against the firm or its registered employees. This information is reported through IIROC's computerized Complaints and Settlement Reporting System.

CPH (THE CONDUCT AND PRACTICES HANDBOOK COURSE)

This is a course offered by the Canadian Securities Institute. Individuals seeking to become a registered representative or investment representative with IIROC must pass this course in order to meet IIROC's proficiency requirements. The course covers the rules, policies and by-laws of the securities commissions and SROs, in addition to the standards of conduct and practices when dealing with client accounts, special transactions and products.

CSA (CANADIAN SECURITIES ADMINISTRATORS)

The CSA is the council of 10 provincial and three territorial securities regulators in Canada. The mission of the CSA is to facilitate Canada's securities regulatory system by protecting investors from unfair fraudulent practices and by promoting fair, efficient and transparent markets through the development of harmonized securities regulations, policies and practices.

GREY LIST/WATCH LIST

A grey list (or watch list) contains the names of issuers about which the Dealer Member or any of its employees may have confidential information. The grey list has limited circulation and is used by Compliance to monitor trading activity that might suggest confidential information may have been leaked or misused.

KYC (KNOW YOUR CLIENT)

This is a standard form in the investment industry that ensures investment advisors know detailed information about their clients' risk tolerance, investment knowledge and financial position. KYC forms protect both clients and investment advisors. Clients are protected by having their investment advisors know what investments best suit their personal situations. Investment advisors are protected by knowing what they can and cannot include in their client's portfolio.

NCAF (NEW CLIENT ACCOUNT FORM)

Investment firms and investment advisors are required to have new clients complete this form to ensure the firm and the representative are aware of the client's financial position and investment objectives so that the firm and the representative can assess the suitability of their advice.

NEW ISSUE

A security that is being offered for the first time to investors by the issuer. New issues are sometimes Initial Public Offerings but may also be a distribution of additional securities by an established issuer.

SHORT SALE

The sale of a security that the seller does not own. Such a transaction is made in anticipation of a decline in the price of the security. The seller will be able to profit from the transaction by buying back the security at a lower price.

Glossary of Terms

SPOOFING/LAYERING

Trading strategies that are considered manipulative and deceptive. Spoofing involves entering non-*bona fide* orders (orders that are not intended to trade) in the pre-opening of a marketplace that displays a Calculated Opening Price with the intent of manipulating that price to the trader's advantage. Layering generally involves the entry of a series of orders and trades in an attempt to ignite a rapid price movement either up or down in an attempt to induce others to trade at artificially high or low prices. A market participant may place a *bona fide* order on one side of the market and simultaneously "layer" the book with non-*bona fide* orders on the other side of the market in order to bait other market participants to react to the non-*bona fide* orders and trade with the *bona fide* order.

SRO (SELF-REGULATORY ORGANIZATION)

SRO refers to an organization that sets standards, monitors members for compliance with those standards and takes appropriate action when those standards are not met.

ULTIMATE DESIGNATED PERSON (UDP)

The most senior officer of a Dealer Member who is responsible for promoting a culture of compliance and overseeing the effectiveness of the firm's compliance system. Generally, the chief executive officer of the firm must be designated as the UDP. This position is a registration category that requires IIROC approval.

UMIR (UNIVERSAL MARKET INTEGRITY RULES)

Market Regulation Services introduced the Universal Market Integrity Rules as a common set of equity trading rules designed to ensure fairness and maintain investor confidence. The UMIR continues to be IIROC's market integrity rules.

IIROC OCRCVM

Investment Industry Regulatory Organization of Canada

Organisme canadien de réglementation du commerce des valeurs mobilières

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