

July 17, 2024

**Submitted via Email**

Attention:

Member Regulation Policy  
Canadian Investment Regulatory Organization  
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Dear CIRO:

**Re: CIRO Rule Consolidation – Phase 3 Consultation (the “Consultation”)**

The Investment Industry Association of Canada (**IIAC**) is the national association representing financial services firms who manufacture and distribute a variety of securities to Canadians.

The IIAC’s comments to the Consultation are summarized in Schedule “A”.

Our comments are also provided on each proposed Rule, as may be applicable, as well as on the Corporation Membership Disclosure Policy, in Schedule “B”.

Our responses to CIRO’s Consultation questions are set out as follows:

- **Question 1 - Process used for publishing for public comment**

Many of comments received as part of the first phase of our Rule Consolidation Project indicated that once the initial publication of the five phases is complete, any subsequent republication of the proposed rules should be as an entire rulebook (i.e. not as separate phases). Should we republish the entire set of proposed Dealer and Consolidated Rules prior to their approval?

**IIAC Response:** The IIAC continues to be in favour of republishing the draft set of proposed rules together for final comments prior to approval. Thank you for your consideration.

- **Question 2 – Implementation**

Many of comments received as part of the first phase of our Rule Consolidation Project indicated the Dealer and Consolidated Rules should be implemented all at once (and not in phases). Should we implement the entire set of proposed Dealer and Consolidated Rules at the same time?

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**IIAC Response:** The IIAC continues to be in favour of implementing rule changes at the same time, subject to holistic review and if it is apparent that certain rules are best implemented in phases. Thank you for your consideration.

How long a period should we allow for the implementation of the proposed Dealer and Consolidated Rules?

**IIAC Response:** The IIAC wishes to provide as informed a response as is possible and will therefore be in a better position to advise once the balance of the proposed amendments is available for review.

- **Question 3 - Cross-guarantee requirements**

To ensure a level playing field for investment dealers and mutual fund dealers, we have proposed to require cross-guarantees between Dealer Members and their related companies. The term "related company" is exclusively used to explain the relationship between Dealer Members (through at least 20% common ownership of both Dealer Members (directly or indirectly)).

The result of adopting this amended IDPC and MFD rule requirement is that commonly owned investment dealers and mutual fund dealers will have to cross-guarantee each other.

Does requiring cross-guarantees between investment dealers and mutual fund dealers cause undue burden? If yes, please explain.

**IIAC Response:** The necessity of a cross-guarantee in light of CRO capital requirements is unclear. The existence of a cross-guarantee adds avoidable administrative burden and the potential for firms with different registration categories to be liable for types of business they are not registered to conduct.

The rationale for a cross-guarantee is not applicable under certain scenarios, and CRO should be flexible in these circumstances. When dealers make portfolio investments in other dealers, the need for each dealer to provide a cross-guarantee becomes problematic in the event dealers are not closely related within a specific corporate group. For example, if dealer A and B have common ownership but are not controlled by a single common owner and dealer B then makes an independent decision to make a portfolio investment in dealer C, the need for dealer A to cross-guarantee dealer C is problematic, as dealer A and dealer C are completely separate entities with no financial ties and, in fact, they may be competitors.

- **Question 4 - Membership disclosure policy**

The current membership disclosure requirements applicable to investment dealers and mutual fund dealers have the following key differences:

The mutual fund dealer policy requires that both the CRO logo and a link to the CRO website be included on account statements, whereas the investment dealer policy only requires the CRO logo (the proposed Membership Disclosure Policy found in Appendix 5 extends the mutual fund dealer requirement to all Dealer Members). The investment dealer policy requires that the CRO decal be displayed at all public-facing business locations, whereas the mutual fund dealer policy does not have a similar requirement (the proposed Membership Disclosure Policy found in Appendix 5 removes this requirement for all Dealer Members). The investment dealer policy requires that the CRO official brochure be provided to clients at

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account opening or upon request, whereas the mutual fund dealer policy does not have a similar requirement (the proposed Membership Disclosure Policy found in Appendix 5 extends the investment dealer requirement to all Dealer Members).

Do you agree with the changes highlighted above and the proposed Membership Disclosure Policy found in [Appendix 5](#)? If not, please explain.

**IIAC Response:** There is no added value following the rebranding exercise already undertaken to inserting a link to the CIRO site, given that firms already disclose their CIRO membership. This can be an option rather than a requirement for firms, addressed in guidance.

We also recommend the standard be that the CIRO brochure be provided by Dealer Members by link or hard copy upon client request.

We suggest that the requirement for Dealer Members to display the CIPF decal be similarly eliminated.

- **Question 5 - Account transfers**

Our assessment of the proposed harmonization of the transfer requirements suggests minimal impact to dealer members. Do you agree with this assessment? If not, what potential challenges do you anticipate?

**IIAC Response:** As noted, there is a separate project to modernize transfer practices, and as such this rule proposal continues to accommodate existing transfer form and FundSERV operational methods used by mutual fund dealers. Generally, if a cost-effective electronic platform cannot be available to all dealers, we encourage CIRO to continue to accommodate other forms of timely transfers. The proposed Rules applicable for account transfers through CDS ATON should also expressly indicate they are only applicable for Dealer Members if they are CDS ATON participants, otherwise they appear to require all mutual fund dealers to become CDS ATON participants.

- **Question 6 - Trading and delivery standards**

We believe that harmonizing trading and delivery standards for securities will be of minimal impact to Dealer Members' current practices. Do you agree? Why or why not?

**IIAC Response:** Agree.

- **Question 7 - Maximum fine**

To deter Regulated Persons from misconduct, we propose increasing the maximum fine a CIRO hearing panel can impose to \$10 million per offence, from \$5 million. Do you agree with our proposal to increase the maximum fine a CIRO hearing panel can impose?

**IIAC Response:** No.

Why or why not?

**IIAC Response:** No evidence has been provided to support a sound policy basis for any need to increase

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finer. The fine increase also appears unrelated to harmonization. A monetary fine should not be viewed in isolation; other sanctions and reputational risk can be strong deterrents.

We have also included recommendations to enhance the investigation and enforcement process to save resources and encourage early resolution.

### **Question 8 - Sanctioned individuals**

To help ensure that individuals do not engage in any activities that defeat the purpose of any CRO sanction they might receive, we propose barring Regulated Persons from hiring or engaging in any capacity and remunerating any individuals who are subject to a bar or suspension during the period of the bar or suspension. Under this prohibition, Regulated Persons would still be able to pay remuneration to a sanctioned individual that is:

- consistent with the scope of activities permitted under the sanction, or
- pursuant to an insurance or medical plan, an indemnity agreement relating to legal fees or as required by arbitration awards or court judgment.

Under the IDPC Rules, Regulated Persons are prohibited from engaging an individual who is permanently barred from employment with an investment dealer. Under the MFD Rules, there is no specific prohibition, however, in practice Regulated Persons cannot engage any individuals to perform securities-related business where they have been barred or suspended from doing so.

Do you agree with our proposal to expand the activity restrictions on sanctioned individuals? Why or why not?

**IIAC Response:** It is important to note that in some circumstances, a suspension may be agreed to simply to achieve resolution. As suspension impacts the professional's livelihood and ability to earn income, it should be implemented fairly by narrowing the remuneration restriction to allow for payment of previously earned but unpaid compensation, which will also assist with employment law concerns.

We remain happy to discuss these further with you.

Respectfully submitted,

***Investment Industry Association of Canada***

cc.

Market Regulation, Ontario Securities Commission

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## SCHEDULE "A"

### CIRO RULE CONSOLIDATION – PHASE 3: IIAC SUMMARY OF COMMENTS

#### Series 1000 – Interpretation and Principles Rules

##### Rule 1200 – Definitions:

No comments.

#### Series 2000 – Dealer Member Organization and Individual Approval Rules

##### Rule 2100 – Ownership of a Dealer Member's Securities

- **Rule 2102(1) – Definitions**

- **"industry investor"**: Insert in clause (ii), *"where either the individual referred to in clause (i) or the spouse has trading authority over the other's account or has commingled funds in the other's account"*, so that reads as, *"Any of the following that hold a beneficial ownership interest in a Dealer Member or its holding company: (ii) a spouse of an individual referred to in clause (i) of this definition, where either the individual referred to in clause (i) or the spouse has trading authority over the other's account or has commingled funds in the other's account."*
  - To meet the policy objectives of rules related to industry investors without unduly restricting unrelated family accounts.

##### Rule 2200 – Dealer Member Organization

- **Rule 2206(1) – Holding Companies, Related Companies and Order Execution Only Service Providers – Related companies:**

Regarding obtaining CIRO approval before set-up or acquisition of a related company or associate,

- delete "obtain", replace with *"provide notice to the"*,
- delete "approval",
- delete "any",
- insert *"10% or more of"*,

so that reads as, *"A Dealer Member, or an employee, Approved Person, or investor of a Dealer Member, must provide notice to the Corporation before it sets up, or acquires interest in 10% or more of a related company or associate."*

- With new added fees for business change approvals, it would be more efficient to have a notice requirement instead (certain parameters could be included for what are acceptable criteria for acquiring interest with ability to apply for exemption). There is no

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regulatory risk identified given the Mutual Fund Dealer notice practice has been without issue. Please also see Rule 2246(1)(iii).

- **Rule 2216(1)(i) – Shared Office Premises – General requirements:**

Regarding when a Dealer Member may use shared office premises, delete “clearly understands”, replace with “*is clearly informed of*”, so that reads as, “A Dealer Member may use shared office premises provided that: (i) the client *is clearly informed of* which legal entity they are dealing with”.

- To create an objective standard.

- **Rule 2218(1) – Shared Office Premises – Privacy and confidentiality**

Regarding the privacy and confidentiality of shared office premises, delete “be laid out and operated in a manner that”, so that reads as, “A Dealer Member’s shared office premises *must ensure* the control and confidentiality of client information by ensuring that client records and account process areas are effectively controlled and physically secure.

- For clarity that reconfiguration of premises is not required.

- **Rule 2218(4)(ii) – Shared Office Premises – Privacy and confidentiality:**

Regarding when a Dealer Member can share client information with another entity in the shared office premises, delete subsection 2218(4)(ii).

- Unnecessary due to subsection 2218(4)(i).

- **Rule 2219(3)(v) – Shared Office Premises – Permitted and restricted activities:**

Regarding prohibited and restricted activities on behalf of the Dealer Member by non-registered personnel employed by the Dealer Member or representative of another entity in the shared office premises, insert “*or administrative*”, so that reads as, “completing know-your-client information on an account application, other than biographical *or administrative* information”.

- For clarification.

- **Rule 2245(1) – Notification Requirements – Introduction:**

Regarding when CISO may review proposed changes in a Dealer Member’s business, listed in 2246 (Dealer Member’s notice of changes to the Corporation):

- **Rule 2245(1)(i):**

Delete “unduly impacting its clients”, replace with “*greater impact to its clients than is necessary to make the change*”, so that reads as, “The Corporation may review proposed changes in a Dealer Member’s business, listed in section 2246, to ensure: (i) the Dealer Member is adequately prepared to make the change without *greater impact to its clients than is necessary to make the change*”.

- Housekeeping / clarification.

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- **Rule 2245(1)(iii):**

Delete “is in”, replace with “*is not contrary to*”, so that reads as, “The Corporation may review proposed changes in a Dealer Member’s business, listed in section 2246, to ensure: (iii) the change *is not contrary to* the public interest”.

- **Rule 2246 – Notification Requirements – Dealer Member’s notice of changes to the Corporation:**

- **Rule 2246(1)(iii):**

Regarding notification to CIRO in writing at least 20 days prior to a change,

- Insert new subsection (iii): “*setting up or acquiring interest in 10% or more of a related company or associate*”,

so that reads as, “A Dealer Member must notify the Corporation in writing a minimum of 20 days before: (iii) *setting up or acquiring interest in 10% or more of a related company or associate*,”

- Added language to track proposed language in Rule 2206(1).
- Rule 2247 provides CIRO ability to assert that approval is required.

- **Rule 2246(3):**

Regarding the requirement that a Dealer Member must notify and receive approval from CIRO,

- insert “*not previously approved for margin accounts*”;
- delete reference to (previously approved) highly leveraged securities or derivatives (based on new underlying interest) and simplify to refer instead to “*offering clients leverage*”,

so that reads as, “A Dealer Member *not previously approved for margin accounts* must notify in writing and receive written approval from the Corporation *before offering clients leverage*.”

- To clarify expectations. Margin limits and suitability requirements are determined by other CIRO Rules.

#### Rule 2300 – Principal and Agent Relationships

- Due to pending policy options for leveling advisor compensation, and public comments previously provided in respect of same, **Rule 2302** (Principal and agent relationships) and **Rule 2303** (Written agreement between the Dealer Member and the Corporation) should be excluded from Phase 3 Consultation.

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## Series 4000 – Dealer Member Financial and Operational Rules

### Rule 4700 – Operations – Business Continuity and Trading and Delivery Standards

- **Rule 4711(1) – Business Continuity Plan – Definitions:**

- **“significant business disruption”:** To focus on investor harm, refer instead to “*substantial harm to a client*”, so that reads as, “A cybersecurity incident or any other incident that may result in *substantial harm to a client*.”
  - This proposed definition focuses on investor harm.
- Precious metals bullion is not a security.

- **Rule 4716(1)(i) and Rule 4716(2)(i) – Business Continuity Plan – Notice of disruption and invoking the business continuity plan:**

Regarding the requirement for Dealer Members to notify CRO where (1) a significant business disruption occurs, and (2) a Dealer Member invokes its business continuity plan, as a housekeeping / clarification change, insert “*reasonably*”, so that reads as,

- (1) “the Dealer Member must (i) notify the Corporation of this incident as soon as *reasonably* possible after its discovery of the disruption”;
- (2) “the Dealer Member must (i) notify the Corporation as soon as *reasonably* possible”.

### Rule 4800 – Operations – Trading and Delivery Standards for Non-Centrally Cleared Transactions, Account Transfers and Bulk Account Movements

- **Rules 4852 through 4865 – Account transfers**

- **Rule 4852(1) – Account transfers – Transferring a full or partial account:**

Regarding transfers of full or partial accounts, insert “*as applicable*”, so that reads as, “A Dealer Member transferring a full or partial account must comply with Part B.1 of Rule 4800, *as applicable*.”

- **Rule 4853(1) – Account transfers – Transfer through a recognized depository:**

Regarding transfers through a recognized depository,

- insert “*If a Dealer Member is a CDS ATON participant,*”,
- insert “*CDS’s account transfer facility or another*”,

so that reads as, “*If a Dealer Member is a CDS ATON participant, whenever possible, the Dealer Member transferring a client account must transfer that account through CDS’s account transfer facility or another recognized depository.*”

- Proposed Rules applicable for account transfers through CDS ATON should expressly indicate they are only applicable for Dealer Members if they are CDS ATON participants, otherwise they appear to require all Mutual Fund Dealers to become CDS ATON participants.
- Consistency between 4853(1) and 4854(1) in respect of CDS’s account transfer facility and broader recognized depository.



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- **Rule 4854(1) – Account transfers – Communications between Dealer Members:**

Regarding communications between Dealer Members,

- insert “*that are CDS ATON participants*”,
- insert “*or another recognized depository*”,

so that reads as, “Communications between Dealer Members *that are CDS ATON participants* must take place by electronic delivery through CDS’s account transfer facility or *another recognized depository*, unless both Dealer Members agree otherwise.”

- **Rule 4855 – Account Transfers – Receiving Dealer Member – responsibilities for documents**

- **Rule 4855(1):**

Regarding the client authorization required if a receiving Dealer Member receives a request from a client to accept an account, delete “*written*”, so that reads as, “If a receiving Dealer Member receives a request from a client to accept an account, it must *obtain authorization* from the client to transfer the account.”

- This clarifies that other forms of client authorization can comply.

- **Rule 4855(2):**

To track the recommended revision in 4855(1), delete “*written*”, so that reads as, “(2) After the client *gives authorization* to the receiving Dealer Member...”

#### Rule 4900

No comments.

### **Series 8000 – Procedural Rules - Enforcement**

#### Rule 8100 – Enforcement Investigations

- **Rule 8102(1) – Conducting investigations:**

Regarding the scope of investigation of Enforcement Staff, delete “*applicable laws*”, so that reads as, “Enforcement Staff may investigate the conduct, business and affairs of a Regulated Person with respect to Corporation requirements, *securities laws*, or trading or advising in respect of securities or derivatives.

- Jurisdiction limited to securities.

- **Rule 8103(1) – Investigation powers**

Regarding investigation powers of Enforcement Staff, delete “*an employee, partner, director or officer of a Regulated Person*”, so that reads as, “In connection with an investigation, Enforcement Staff may, by written or electronic request, require a *Regulated Person, an approved investor*, or, where authorized by law, another person to:”

- “Regulated Person” is defined in By-Law No. 1.

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- **Rule 8103(1)(ii) and Rule 8103(3)(ii) – Investigation powers:**

Regarding investigation powers of Enforcement Staff, delete “may be”, replace with “is” so that reads as, “that Enforcement Staff believe *is* relevant to the investigation”.

- Housekeeping; to focus on relevance.

- **Rule 8104 – Obligations of Regulated Persons and other persons:**

- **Rule 8104(1):**

Regarding a person who receives a request under Enforcement Staff’s investigation powers, delete “comply with”, replace with “*respond to*”, so that reads as, “A person who receives a request made under section 8103 must *respond to* the request within the time specified in it.”

- To account for reasonable requests for necessary additional time to comply.

- **Rule 8104(3):**

A “*Regulated Person*”, rather than a “person”, must cooperate with Enforcement Staff conducting an investigation.

- To accord with General By-Law No. 1 and CIRO Rules.

- **Rule 8104(4):**

Regarding the prohibition against concealing or destroying any record by a person who is aware that Enforcement Staff are conducting an investigation, delete “may be”, replace with “*is*” so that reads as, “must not conceal or destroy any record, document or thing that contains information that *is* relevant to the investigation”.

- Housekeeping; to focus on relevance.

- **Rule 8104(5):**

Regarding the requirement to submit records to a Marketplace upon request, delete “any person approved by, or under the jurisdiction of, the Corporation,” replace with “*Regulated Person*”, so that reads as, “A Dealer Member or *Regulated Person* that is requested by a Marketplace”.

- To accord with General By-Law No. 1 and CIRO Rules.

- **Rule 8106 – Confidentiality of investigations:**

- **Rule 8106(2)(iv):**

Regarding disclosure of the existence and nature of an investigation, which an order made under 8106(1) shall not prohibit,

- Add “(d) *legal counsel*”;
- Delete “but only to the extent necessary to supervise the person or allow officers of a Dealer Member or other Regulated Person to inform their board of directors of an investigation”

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- There should not be disclosure restrictions on Dealer Members, supervisors or legal counsel.

#### Rule 8200 – Enforcement Proceedings

- **Rule 8201(2) – Introduction:**

Regarding the intended purpose of enforcement proceedings, delete “applicable laws”, so that reads as, “Enforcement proceedings are intended to ensure compliance with and to enforce Corporation requirements, *and securities laws*, *and* other requirements relating to trading or advising in respect of securities or derivatives.”

- To address jurisdiction.

- **Rule 8203 – Hearings:**

- **Rule 8203(3):**

Regarding evidence that a hearing panel may admit as evidence, delete “whether or not given or proven under oath or affirmation or admissible as evidence in a court”, so that reads as, “A hearing panel may admit as evidence in a hearing any oral testimony and any document or other thing that is relevant.”

- Unsworn evidence is given little to no weight and should be removed.

- **Rule 8203(7):**

Regarding decisions for which a hearing must provide written reasons, delete “but not”, replace with “*and*”, so that reads as, “A hearing panel must provide written reasons for a decision made by it, including a decision accepting or rejecting a settlement agreement under section 8215, *and* including an evidentiary or other procedural ruling, made in the course of a hearing, that is not dispositive of the issues raised in the hearing”.

- Procedural rulings may be material and should include reasons.

- **Rule 8205(1) – Commencement of enforcement proceedings:**

Regarding when CIRO may commence proceedings and hold hearings, as provided in Rule 8200, delete “applicable laws”, so that reads as, “The Corporation may commence proceedings and hold hearings, as provided in Rule 8200, to ensure compliance with and to enforce Corporation requirements, *and securities laws*, *and* other requirements relating to trading or advising in respect of securities and derivatives.”

- Maintains hearings within CIRO jurisdiction.

- **Rule 8208(2)(ii) – Powers of compulsion:**

Regarding requirements on a Regulated Person upon receipt of an order of a hearing panel or a notice from the Hearing Office,

- Insert “*relevant*”;

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- Insert “*order within the*”  
so that reads as, “(ii) produce for inspection and provide copies of any *relevant* records or documents in the *order within the* Regulated Person’s possession or control”.

- To define scope.

- **Rule 8209 – Disciplinary Proceedings – Sanctions for Dealer Members:**

- **Rule 8209(1):**

Regarding the finding by a hearing panel of a contravention by a Dealer Member, delete “applicable laws”, so that reads as, “If, after a hearing, a hearing panel finds that a Dealer Member has contravened Corporation requirements, *and securities laws, or* other requirement relating to trading or advising in respect of securities or derivatives, or has failed to carry out any agreement with the Corporation, the hearing panel may impose one or more of the following sanctions:”

- Maintains matters within scope.

- **Rule 8209(1)(iii):**

Regarding the increased fine that a hearing panel may impose for a contravention by a Dealer Member, no evidence has been provided to support a sound policy basis for the increase.

- **Rule 8210 – Sanctions for Regulated Persons other than Dealer Members:**

- **Rule 8210(1):**

Regarding the finding by a hearing panel after a hearing of contraventions by Regulated Persons other than Dealer Members, delete “applicable laws”, so that reads as, “If after a hearing, a hearing panel finds that ... has contravened Corporation requirements, *and securities laws, or* other requirement relating to trading or advising in respect of securities or derivatives, or has failed to carry out any agreement with the Corporation, the hearing panel may impose on such person one or more of the following sanctions:”

- Maintains matters within scope.

- **Rule 8210(1)(iii):**

Regarding the fine that a hearing panel may impose for contraventions by a Regulated Person other than Dealer Members, no evidence has been provided to support a sound policy basis for the increase.

- **Rule 8210(5):**

Regarding the engagement in any capacity by a Regulated Person of a person who is sanctioned under 8210, please see responses to CIRO consultation questions.

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- **Rule 8210(8):**

Regarding paying or crediting a person sanctioned under certain subsections of 8210, add a subsection (iii): *“previously earned prior to the sanction but not yet paid”*.

- Remuneration restriction should allow for payment of previously earned but unpaid compensation, which will also assist with employment law concerns.

- **Rule 8214 – Costs:**

Regarding the discretion of a hearing panel to address costs, add a subsection (3): *“After a hearing under Rule 8200, other than a hearing under section 8211, a hearing panel has discretion to address costs payable by any party to the proceeding with regard to the public interest.”*

- To address the role costs may play to serve the public interest in any given proceeding, where facts and circumstances may vary.

- **Rule 8215 – Settlements and settlement hearings:**

- **Rule 8215(4):**

Delete subsection (4) in respect of the scope of obligations that a settlement agreement may impose on a respondent.

- A settlement agreement should reflect a compromise for less than what may be awarded at a hearing. Though enforcement cannot have greater powers than a hearing panel to impose obligations on a respondent, we encourage Enforcement Staff to find reasonable alternatives to resolution.

#### Rule 8300 – Hearing Committees

- **Rule 8307 – Removal:**

Regarding the ability under which the Appointments Committee may remove a hearing committee member, delete Rule 8307(1)(iii) and Rule 8307(1)(iv).

- Gives the appearance of interference and undue influence by the Appointments Committee over the hearing panel and compromises the independence of the hearing panel.

#### Rule 8400 – Rules of Practice and Procedure

- **Rule 8401(1) – Introduction**

Regarding the Rules of Procedure,

- insert *“and prehearing conferences”*,
- insert *“investigations”*,

so that reads as, *“The Rules of Procedure set out the rules that govern the conduct of the Corporation’s enforcement proceedings, regulatory review hearings and prehearing conferences to secure fair and efficient investigations, proceedings and just determinations.”*

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- A greater use of prehearing conferences with (a) panel member(s) can be made to narrow issues, save costs and resources and encourage early resolution.
  - There should be a rule revision whereby at any time prior to the commencement of any proceeding under Rule 8200 a party may request a confidential attendance before a panel member to consider:
    - a) The settlement of any or all of the issues;
    - b) The simplification of the issues;
    - c) Facts that may be agreed upon;
    - d) Any other matter that may further a just, expeditious and cost-effective disposition of an investigation.
  - A panel member should otherwise be available at the request of either party at any stage of an investigation or negotiation to preside over this confidential attendance.

- **Rule 8403(4) – General – General principles:**

Regarding the ability of a hearing panel to provide for a procedural matter not otherwise provided for,

- revise “Rules of Procedure” to insert “*Civil*”,
  - insert “*in the jurisdiction*”,
  - delete “or by reference to the rules of practice or procedure of another SRO or professional association”,
  - insert “*Canadian*”,
  - so that reads as, “At the request of a party, a hearing panel may provide for any procedural matter that is not provided for in the Corporation requirements or the Rules of Procedure by analogy to the Rules of *Civil Procedure in the jurisdiction or to the rules applicable to a Canadian securities regulatory authority.*”
- To define scope for procedural analogy.

- **Rule 8406(4)(v) – General – Service and filing:**

Regarding the service of a notice of hearing or application, delete “with the consent of the counsel or agent”, so that reads as, “electronic transmission to the party or the party’s counsel or agent”.

- Email delivery is now the norm and need not require consent.

- **Rule 8414 – Enforcement Proceedings – Commencement of disciplinary proceedings:**

We suggest that Statement of Allegations, which are unproven, not be posted or, if posted, responses be posted as well. We further suggest that following a settlement or decision, the Statement of Allegations, if posted, be removed.

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- **Rule 8416 – Enforcement Proceedings – Prehearing conferences:**

- **Rule 8416(1):**

Regarding when a prehearing conference may be ordered / requested, insert “*or at any time during the course of an investigation*”, so that reads as, “At any time prior to commencement of the hearing of a proceeding on the merits *or at any time during the course of an investigation*.”

- Prehearing conferences should be available sooner in the process and should not be dependent on the issuance of a Statement of Allegations.

- **[New] Rule 8416(2):**

Add a subsection (2): “*In addition to (1), the parties are required to schedule a prehearing conference prior to the commencement of any hearing, with the exception of review proceedings in Parts C and D.*”

- **Rule 8416(6) [would be 8416(7)] and Rule 8416(6)(vii) [would be Rule 8416(7)(vii)]:**

To track the recommended language in 8416(1), insert “*or investigation*” in both clauses.

- **Rule 8416(7)(vi) [would be 8416(8)(vi)] and Rule 8416(7)(viii)(c) [would be 8416(8)(viii)(c)] and Rule 8416(7)(ix) [would be Rule 8416(8)(ix)]:**

To track the recommended language in 8416(1), insert “*or investigation*” in the three clauses.

- **Rule 8431(4)(ii) – Securities Regulatory Authority Review – Record for review:**

Regarding the ability of the Hearing Office to omit documents from the record of a proceeding, delete subsection (ii), “the hearing panel so directs”.

- Discretion should be limited to the parties’ consent.

## **Series 9000 – Procedural Rules – Other**

### **Rule 9100 – Compliance Examinations**

- **Rule 9103(1) – Conducting examinations:**

Regarding the scope of examinations by CIRO staff, delete “applicable laws”, so that reads as, “Corporation staff may examine the conduct, business and affairs of a Regulated Person with respect to Corporation *requirements, or trading or advising in respect of securities or derivatives.*”

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- **Rule 9104 – Examination powers:**

- **Rule 9104(1)(ii):**

Regarding requests by CIRO staff in connection with an examination, delete “may be”, replace with “*is*”, so that reads as, “that Corporation staff believe *is* relevant to the examination”.

- **Rule 9104(3)(ii):**

Regarding the access by Corporation staff to records in connection with an examination,

- delete “may be”, replace with “*is*”, so that reads as, “that Corporation staff believe *is* relevant to the examination”,
- delete “by taking an image of the computer hard drives or other storage media of the Regulated Person”, replace with “*by taking a digital image of the Regulated Person’s records*”. This is for consistency with 8103(3)(ii).

- **Rule 9105 – Obligations of Regulated Persons and other persons:**

- **Rule 9105(1):**

Regarding the requirements on a person who receives a request under CIRO staff’s examination powers, delete “comply with”, replace with “*respond to*”, so that reads as, “A person who receives a request made under section 9104 must *respond to* the request within the time specified in it.”

- To account for reasonable requests for necessary additional time to comply.

- **Rule 9105(3):**

Regarding the prohibition against concealing or destroying any record by a person who is aware that CIRO staff is conducting an examination, delete “may be”, replace with “*is*”, so that reads as, “that contains information that *is* relevant to the examination.”.

- Housekeeping; to focus on relevance.

- **Rule 9106 – Use of information:**

- **Rule 9106(1):**

Regarding the ability of CIRO staff to refer information obtained from an examination, insert “*in Canada*”, so that reads as, “Corporation staff may refer any information obtained from an examination to Enforcement Staff, other Corporation staff, or a securities or derivatives regulatory authority *in Canada*.”

- Memoranda of Understanding should be subject to a public comment process.

- **Rule 9106(2):**

Regarding the ability of CIRO staff to take any other appropriate action based on information obtained from an examination, delete subsection (2).



- 
- Too broad, needs parameters.

#### Rule 9200 – Approvals and Regulatory Supervision

No comments.

#### Rule 9500 – Alternative Dispute Resolution

- **Rule 9502(3) – Participation by a Dealer Member in arbitration:**

Regarding CIRO’s authority in respect of arbitration, delete subsection (3).

- Arbitrator assumes authority in a binding decision.

- **Rule 9504(3) – Dealer Members must provide information to ombudsman service:**

Regarding the sharing of information by OBSI to CIRO, retain subsection (3). This clause should not be deleted.

- There should not be information sharing between OBSI and CIRO.

#### CIRO Membership Disclosure Policy (Appendix 5)

- **Section 4.2 (Client Account Statements), Section 5 (CIRO Official Brochure), and Rule 2285 (Corporation membership disclosure requirements for Dealer Members)**

- **Section 4.2 – Client Account Statements:**

Regarding the inclusion of a link to the CIRO Website in client account statements, this can be an option rather than a requirement for firms, addressed in guidance, so the requirement should delete “and a link to the CIRO Website”, so that reads as, “Each Dealer Member must include the CIRO Logo on the front of each account statement that is sent to clients.”

- There is no added value following the rebranding exercise already undertaken, to inserting a link to the CIRO site, given that firms already disclose their CIRO membership.

- **Section 5 – CIRO Official Brochure:**

We also recommend the standard be that the CIRO brochure be provided by Dealer Members by link or hard copy upon client request.

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**SCHEDULE "B"**

**CIRO RULE CONSOLIDATION – PHASE 3:**

**IIAC COMMENTS ON PROPOSED RULES AND MEMBERSHIP DISCLOSURE POLICY**

*See enclosed.*

**SERIES 2000 | DEALER MEMBER ORGANIZATION AND INDIVIDUAL APPROVAL RULES**

**RULE 2100 | OWNERSHIP OF A DEALER MEMBER'S SECURITIES**

**2101. Introduction**

- (1) Rule 2100 ~~covers~~ sets out requirements for the issuance of securities by a *Dealer Member* or its *holding company* and changes in ownership.
- (2) A *Dealer Member* seeking an approval required under Rule 2100 must conduct its business with integrity and must maintain adequate financial resources. ~~The~~
- (3) When reviewing an application for approval under Rule 2100:
  - (i) the Corporation ~~has a responsibility to ensure~~ ensures that persons who have an interest in a *Dealer Member* are fit and proper. ~~The~~
  - (ii) the Corporation ~~also needs to assess whether~~ ensures the obligations incurred by a *Dealer Member* under the terms of securities it issues do not pose a risk to the *Dealer Member*.

**2102. Definitions**

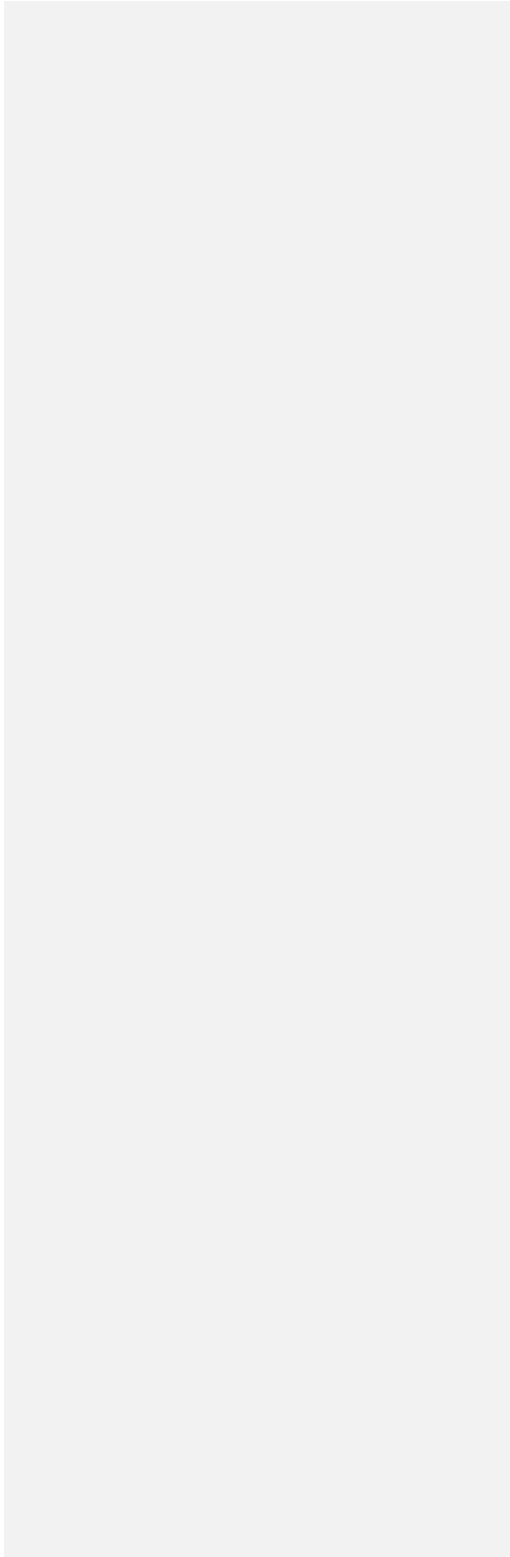
- (1) The following terms have the meaning set out below when used in ~~sections 2103 through 2117~~ Rule 2100:

<p>"industry investor" (<u>investisseur du secteur</u>)</p>	<p>Any of the following that hold a <i>beneficial ownership</i> interest in a <i>Dealer Member</i> or its <i>holding company</i>:</p> <ul style="list-style-type: none"> <li><del>(i)</del> (i) a full-time <i>officer</i> or <i>employee</i> of the <i>Dealer Member</i>, or of a <i>related company</i> or <i>affiliate</i> of the <i>Dealer Member</i>, that conducts <i>Dealer Member related activities</i>.</li> <li><del>(ii)</del> (ii) a spouse of an <i>individual</i> referred to in clause (i) of this definition, <u>where either the individual referred to in clause (i) or the spouse has trading authority over the other's account or has commingled funds in the other's account.</u></li> <li><del>(iii)</del> (iii) an investment corporation, if:             <ul style="list-style-type: none"> <li>(a) all of the <i>individuals</i> referred to in clause (i) of this definition collectively hold the majority of each class of voting securities of the investment corporation, or</li> <li>(b) all of the <i>beneficial owners</i> of all other <i>equity securities</i> of the investment corporation are:                 <ul style="list-style-type: none"> <li>(I) <i>individuals</i> referred to in clauses (i) or (ii) of this definition,</li> <li>(II) children of <i>individuals</i> referred to in clauses (i) and (ii) of this definition, or</li> <li>(III) <i>individuals</i> and organizations that separately qualify as <i>industry investors</i> of a <i>Dealer Member</i> or its <i>holding company</i>,</li> </ul> </li> </ul> </li> <li>(iv) a family trust established and maintained for the benefit of <i>individuals</i> referred to in clauses (i) and (ii) of this definition or their children, if:             <ul style="list-style-type: none"> <li>(a) all of the <i>individuals</i> referred to in clauses (i) or (ii) this definition</li> </ul> </li> </ul>
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**Commented [IIAC1]:** To meet the policy objectives of rules related to industry investors without unduly restricting unrelated family accounts.

**DEALER AND CONSOLIDATED RULES**

	collectively have full direction and control of the trust, including its
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DEALER AND CONSOLIDATED RULES

	<p>investment portfolio and the exercise of voting and other rights of the trust's investments, and</p> <p>(b) all of the trust's beneficiaries are:</p> <p>(I) <i>individuals</i> referred to in clauses (i) or (ii) of this definition,</p> <p>(II) children of <i>individuals</i> referred to in clauses (i) and (ii) of this definition, or</p> <p>(III) <i>individuals</i> and organizations that separately qualify as <i>industry investors</i> of the <i>Dealer Member</i> or its <i>holding company</i>,</p> <p>(v) a registered retirement savings plan, established under the Income Tax Act (Canada), of an <i>individual</i> referred to in clauses (i) or (ii) of this definition if that <i>individual</i> has control of its investment policy and has the only <i>beneficial ownership</i> interest in the registered savings plan,</p> <p>(vi) the <i>Dealer Member's</i> pension fund if the investment decisions relating to that pension fund are made by the <i>individuals</i> referred to in clause (i) of this definition,</p> <p>(vii) an estate of an <i>individual</i> referred to in clauses (i) or (ii) of this definition for one year after the death of the <i>individual</i>, or such longer period allowed by the <i>Corporation</i>, or</p> <p>(viii) any <i>individual</i> or organization, for a period of 90 days, or such longer period as the <i>Corporation</i> may permit, after:</p> <p>(a) the date the <i>individual</i> is no longer an <i>employee</i> of the <i>Dealer Member</i>, its <i>related company</i> or <i>affiliate</i>, in the case of an <i>individual</i> that previously qualified as an <i>industry investor</i> under clause (i) of this definition, or</p> <p>(b) the <i>person</i> through whom the <i>individual</i> or organization previously qualified as an <i>industry investor</i> is no longer an <i>employee</i> of the <i>Dealer Member</i>, its <i>related company</i> or <i>affiliate</i>, in the case of <i>individuals</i> and organizations that previously qualified as an <i>industry investor</i> under clauses (ii) through (v) of this definition.</p> <p>An <i>industry investor</i> must be approved by the board of directors of the <i>Dealer Member</i> or its <i>holding company</i>. The <i>industry investor</i> must also be approved by the <i>Corporation</i> if the <i>industry investor</i> has a <i>significant equity interest</i> in the <i>Dealer Member</i> or its <i>holding company</i>.</p>
<p>"qualified independent underwriter" <a href="#"><i>(placeur indépendant admissible)</i></a></p>	<p>For a distribution of a <i>Dealer Member's</i> securities or its <i>holding company's</i> securities, it means another <i>Dealer Member</i>:</p> <p><del>(i)</del> which has been in the securities business for no less than the five years immediately preceding the date that the prospectus (or other equivalent document) is filed,</p> <p><del>(ii)</del> where, as of the distribution date, the majority of its board of directors (if a corporation) or the majority of its general partners (if a</p>

DEALER AND CONSOLIDATED RULES

	<p>partnership), have been in the securities business for no less than the five years immediately preceding the distribution date,</p> <p><del>(iii)</del> <u>(iii)</u> which has underwritten public offerings of securities for no less than the five years immediately preceding the distribution date, and</p> <p><del>(iv)</del> <u>(iv)</u> which is not an <i>associate</i> or <i>affiliate</i> of the issuing entity.</p>
<p>“significant equity interest”</p> <p><u>(participation notable)</u></p>	<p><u>Any of the following:</u></p> <p><del>(i)</del> <u>(i)</u> a holding of 10% or more of the voting securities of a <i>Dealer Member</i> or its <i>holding company</i>,</p> <p><del>(ii)</del> <u>(ii)</u> a holding of 10% or more of the outstanding participating securities of a <i>Dealer Member</i> or its <i>holding company</i>, or</p> <p><del>(iii)</del> <u>(iii)</u> an interest of 10% or more of the total equity of the <i>Dealer Member</i>.</p>

**2103. Dealer Members must have Corporation approval to issue subordinated debt**

- (1) A *Dealer Member* or its *holding company* must obtain the *Corporation’s* approval in writing before issuing a security representing *subordinated debt*.
- (2) A *Dealer Member* or its *holding company* must obtain the *Corporation’s* approval in writing before signing an agreement to issue *subordinated debt* in the future.

**2104. Repayments and additional subordinated debt**

- (1) A *Dealer Member* must obtain the *Corporation’s* approval in writing before it can issue any additional securities representing *subordinated debt* or repay any *subordinated debt*.

**2105. Agreements with the Corporation**

- (1) Where the *Corporation* is a party to a *subordinated debt* agreement or other debt agreement with the *Dealer Member*, the *Dealer Member* must comply with the agreement in making any repayments of the debt subject to the agreement.

~~**2106. Corporation notification of changes of ownership**~~

- ~~(1) A *Dealer Member* must notify the *Corporation* in writing and file the form specified by the *Corporation* at least 20 days before issuing or transferring its securities or its holding company’s securities, including any legal or beneficial ownership interest in either securities.~~
- ~~(2) Subsection 2106(1) does not apply to a class of securities if:~~
  - ~~(i) there is public ownership of those securities as a result of a distribution made in compliance with securities laws, and~~
  - ~~(ii) the purchase or transfer will not result in an acquirer of the securities owning a significant equity interest.~~

~~**2106.7. Ownership of another Dealer Member**~~

- ~~(1) An *industry investor* is prohibited from purchasing the securities of a *Dealer Member* or its *holding company*, other than in the *Dealer Member* or *holding company* in which the *industry investor* is approved, except if:~~

## DEALER AND CONSOLIDATED RULES

- (i) there is public ownership of the class of securities as a result of a distribution made in compliance with *securities laws* and the *industry investor* will not hold a *significant equity interest*,
- (ii) the *Dealer Member* is a *related company* or an *affiliate* of the *Dealer Member* in which the *industry investor* was approved to invest, or
- (iii) the following apply:
  - (a) the investment does not exceed 10% of any class of the issued equity or voting shares,
  - (b) the *industry investor* notified the *Corporation* of the investment,
  - (c) where the *industry investor* is regulated by another *securities regulatory authority*, the *industry investor* has provided the *Corporation* with evidence that the *securities regulatory authority* does not object to the relationship, and
  - (d) the *Dealer Member* that the *industry investor* was approved to invest in does not object to the investment.

### **21078. Ownership of a significant equity interest and ownership of assets**

- (1) For the purpose of section 21078, “all or a substantial part of the assets” of a registered firm includes, among other things, a registered firm’s book of business, business line or division of the firm.
- (2) A *Dealer Member* must file the form specified by the *Corporation* and obtain *Corporation* approval before allowing a *person*, alone or together with *associates* and *affiliates*, to directly or indirectly, own or hold a *beneficial ownership* interest in:
  - (i) a *significant equity interest* in the *Dealer Member*, or
  - (ii) special warrants or other securities that are convertible into a *significant equity interest* in the *Dealer Member*.
- (3) The written request for approval under subsection 21078(2) must be delivered to the *Corporation* at least 30 days before the proposed ownership change and must include all relevant facts regarding the ownership change sufficient to enable the *Corporation* to determine if the ownership change is:
  - (i) likely to give rise to a conflict of interest,
  - (ii) likely to hinder the *Dealer Member* in complying with *Corporation requirements* or *securities laws*,
  - (iii) inconsistent with an adequate level of investor protection, or
  - (iv) otherwise prejudicial to the public interest.
- (4) Subsection 21078(2) does not apply to the legal representatives of a deceased person who had been approved by the *Corporation* as the owner of a *significant equity interest*. The legal representatives can continue as a registered holder or to hold a *significant equity interest* for a period as permitted by the *Corporation*.
- (5) A *Dealer Member* must file a written request for approval from the *Corporation* at least 30 days before the proposed acquisition if it proposes to acquire all or a substantial part of the assets of a registered firm, or if all or a substantial part of the *Dealer Member* assets

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are to be acquired, and must include all relevant facts regarding the proposed acquisition sufficient to enable the *Corporation* to determine if the acquisition is:

- (i) likely to give rise to a conflict of interest,
  - (ii) likely to hinder the *Dealer Member* in complying with *Corporation requirements or securities laws*,
  - (iii) inconsistent with an adequate level of investor protection, or
  - (iv) otherwise prejudicial to the public interest.
- (6) A *Dealer Member* must not complete a proposed acquisition requiring notice under subsection 2107~~8~~(5) until the *Corporation* approves the proposed acquisition.
- (7) *Dealer Members* acquiring securities or assets of another registered firm for a client in nominee name do not need to provide notice under Rule 2100.

### **2108~~9~~. A Dealer Member's ownership of another Dealer Member**

- (1) A *Dealer Member* or its *holding company* must obtain approval from the *Corporation* before purchasing, directly or indirectly, any securities of another *Dealer Member* or its *holding company*. However, this does not apply if the ownership is a trading position held in the ordinary course of the securities business.

### **2109~~10~~. Public ownership**

- (1) A *Dealer Member* must obtain approval from the *Corporation* before allowing public ownership of the *Dealer Member's* securities or of its *holding company's* securities.
- (2) When the *Corporation* considers an application for approval:
  - (i) the *Dealer Member* must satisfy the *Corporation* that it complies with, and will continue to meet, *Corporation requirements*,
  - (ii) the *Corporation* may require the *Dealer Member* to provide a legal opinion and any other information it considers necessary, and
  - (iii) the *Corporation* may impose conditions on and require undertakings from any *person* it considers necessary to provide reasonable assurance of continuing compliance with *Corporation requirements*.
- (3) Regardless of its own governing corporate statute, a
  - (i) *Dealer Member*, or
  - (ii) *holding company of a Dealer Member*,that is a reporting issuer or equivalent in any Canadian jurisdiction must set up and maintain an audit committee as the Canada Business Corporations Act requires.
- (4) The *Corporation* may exempt a *Dealer Member* or its *holding company* from subsection 2109~~10~~(3).

### **2110~~1~~. Public distribution of a Dealer Member's securities**

- (1) A *Dealer Member* or its *holding company* making a public distribution of its securities must include in the prospectus, or equivalent document, summaries of at least two separate valuations of its securities, if:



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- (i) the *Dealer Member* is underwriting more than 25% of the distribution itself, or
  - (ii) the distribution is offered on an agency or best efforts basis.
- (2) *Qualified independent underwriters* or chartered accountants must prepare the valuations and summaries. A *qualified independent underwriter* participating in the distribution may prepare a valuation.
- (3) Subsection 21104(1) does not apply if securities with identical attributes have been trading on an exchange in Canada for at least six months before the new distribution begins.

### 21112. Take-over bids or amalgamations

- (1) A *Dealer Member* or its *holding company* must obtain at least two separate valuations of its securities if they are distributed through a transaction such as a take-over bid or amalgamation resulting in a publicly traded market for the securities.
- (2) *Qualified independent underwriters* or chartered accountants must prepare the valuations and summaries. A *qualified independent underwriter* participating in the distribution may prepare the valuations and summaries.
- (3) Subsection 21112(1) does not apply if:
- (i) securities with identical attributes have been trading on an exchange in Canada for at least six months before the transaction, or
  - (ii) the circumstances of the transaction, such as the terms of the transaction, were arrived at through arm's length negotiations and the *Corporation*, determines that valuations are not required.

### 21113. Secondary distribution of securities

- (1) The requirements of sections 21104 and 21112 apply, with necessary changes, to a secondary distribution of securities of a *Dealer Member* or its *holding company* if the securities are distributed from a *control* position.

### 21134. Soliciting trades in a Dealer Member's securities

- (1) A *Dealer Member* may solicit trades in its own securities or those of its *holding company* when:
- (i) making a distribution of its own securities under a prospectus in compliance with *Corporation requirements* and *securities laws*, or
  - (ii) making a private placement of its own securities under *securities laws*.
- (2) A *Dealer Member* must not solicit trades in its own securities or its *holding company* in the secondary market.
- (3) A *Dealer Member* may accept unsolicited orders for its own securities or those of its *holding company*.

### 21145. Dealer Member's securities in client accounts

- (1) *An Investment Dealer Member* may accept its own securities or those of its *holding company* as security for a margin account subject to *Corporation requirements* including, but not limited to, Schedule 9 of Form 1.

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- (2) An Investment Dealer Member must not allow a *discretionary account* to hold the Investment Dealer Member's securities or those of its *holding company*.

### **21156. Research reports**

- (1) A *Dealer Member* must not issue research reports or opinion letters on its own securities or those of its *holding company*.

### **21167. Corporation approvals**

- (1) A *Dealer Member* must apply to *Corporation* to obtain an approval required under Rules 2100 and 2200.
- (2) The applicant must pay the prescribed fee.
- (3) Within 10 days after any event that gives rise to a change in the information submitted pursuant to an application for approval, including any bankruptcy or criminal proceedings, the applicant and the *Dealer Member* or *holding company* involved must inform the *Corporation* of the change in the applicant's information.
- (4) The *Corporation* may refuse an application for approval or may withdraw any approval it has granted.

### **21178. - 2199. Reserved.**

## RULE 2200 | DEALER MEMBER ORGANIZATION

**2201. Introduction**

- (1) ~~A(1)~~ Rule 2200 sets out requirements for a Dealer Member when organizing and managing its business and activities.
- (2) A Dealer Member must take reasonable care to organize and manage its business responsibly and effectively.
- (3) A Dealer Member's business must be organized to enable adequate supervision of all of its activities and cannot be organized to avoid Corporation requirements.
- ~~(2)~~ (4) Rule 2200 is divided into the following parts:

Part A ~~=~~ Dealer Member Structure

Part A.1 ~~=~~ Business locations  
[section 2202]

Part A.2 ~~=~~ Holding companies, related companies and order execution only service providers  
[sections 2205 through 2207]

Part A.3 ~~=~~ Non-securities or non-derivatives business ~~and shared premises~~  
[sections 2215 ~~and~~]

Part A.4 - Shared office premises  
[sections 2216 through 2219]

Part B ~~=~~ Dealer Member Membership Changes  
[sections 2220 through 2228]

Part C ~~=~~ Business Change Notification Requirements  
[sections 2245 through 2248]

Part D ~~=~~ Branch Offices of Dealer Members  
[sections 2265 through 2268]

Part E ~~=~~ Trade Names and Disclosures  
[sections 2280 through 2285]

**PART A – DEALER MEMBER STRUCTURE****PART A.1 – BUSINESS LOCATIONS****2202. Business locations**

- (1) ~~Under sub-clause 2803(2)(i)(g), a~~ Dealer Member must notify the Corporation of the opening or closing of a business location as set out under sub-clause 2803(2)(i)(g).

**2203. – 2204. Reserved.**

## DEALER AND CONSOLIDATED RULES

### PART A.2 - HOLDING COMPANIES, RELATED COMPANIES AND ORDER EXECUTION ONLY SERVICE PROVIDERS

#### 2205. Holding companies

- (1) A *Dealer Member* must ensure that all its *holding companies* carrying on business in Canada are legally bound to comply with *Corporation requirements* applicable to *holding companies*.
- (2) A *Dealer Member's holding company* may be another *Dealer Member's holding company* if:
  - (i) the *holding company* owns all of the voting securities and participating securities of ~~an~~ *Dealer Member*, or
  - (ii) the *Dealer Member* obtains *Corporation* approval to become the *holding company* of a second *Dealer Member*.

#### 2206. Related companies

- (1) A *Dealer Member*, or an employee, *Approved Person*, or investor of a *Dealer Member*, must ~~obtain~~ provide notice to the *Corporation* ~~approval~~ before it sets up, or acquires ~~any~~ interest in 10% or more of a *related company* or *associate*.
- (2) A *Dealer Member* must obtain *Corporation* approval before creating a wholly owned *subsidiary* whose principal business is a securities or derivatives broker, dealer or adviser.
- (3) A *Dealer Member* must be responsible for and *guarantee* its *related companies'* obligations to clients, and each of its *related companies* must be responsible for and *guarantee* the *Dealer Member's* obligations to its clients, as follows:
  - (i) a *Dealer Member* that holds an interest in a *related company* must *guarantee* an amount equal to 100% of the *Dealer Member's* financial statement capital,
  - (ii) a *Dealer Member* that holds an interest in a *related company* must have the *related company* *guarantee* an amount equal to the *Dealer Member's* percentage ownership multiplied by the *related company's* financial statement capital, and
  - (iii) where two *related companies* are related because the same *person* has an ownership interest of at least 20% in each of them, the *related companies* must *guarantee* each other for an amount equal to that *person's* ownership percentage multiplied by the *company's* financial statement capital.
- (4) A *Dealer Member*, and each of the *Dealer Member's related companies* that are required to *guarantee* an amount under subsection 2206(3), must sign the current *Corporation* *guarantee* form.
- (5) The Corporation Board may exempt a *Dealer Member* from subsection 2206(3), or may decide that a *guarantee* for a greater amount is required.

#### 2207. Approval as an order execution only account services provider

- (1) The *Corporation* may approve ~~an~~ Investment *Dealer Member* or a business unit of ~~an~~ Investment *Dealer Member* to be an *order execution only account service* provider if the Investment *Dealer Member's* only business is an *order execution only account service* provider or it provides that service in a separate business unit.

**Commented [IIAC1]:** With new added fees for business change approvals, it would be more efficient to have a notice requirement instead (certain parameters could be included for what is acceptable criteria for acquiring interest with ability to apply for exemption). There is no regulatory risk identified given the Mutual Fund Dealer notice practice has been without issue. Please also see Rule 2246(1)(iii).

## DEALER AND CONSOLIDATED RULES

- (2) ~~A~~An Investment Dealer Member that is offering *order execution only account* services must comply with all *Corporation requirements* other than those for which compliance is specifically exempted.
- (3) ~~A~~An Investment Dealer Member's policies and procedures must specifically address the operation of its *order execution only account* services.
- (4) If operating as a separate business unit within ~~a~~an Investment Dealer Member, an *order execution only account* services provider must have separate letterhead, accounts and account documentation, and its *Registered Representatives* and *Investment Representatives* may not work for any other business unit within the Investment Dealer Member.
- (5) ~~A~~An Investment Dealer Member must not compensate *employees* by giving them trade commissions for transactions executed in *order execution only accounts*.

2208. – 2214. Reserved.

### PART A.3 - NON-SECURITIES OR NON-DERIVATIVES BUSINESS ~~AND SHARED PREMISES~~

#### 2215. Business other than securities or derivatives

- (1) A *Dealer Member* must obtain *Corporation* approval before carrying on any business other than *Dealer Member related activities*.
- (2) A *Dealer Member* or a *Dealer Member's holding company* may, without *Corporation* approval, own an interest in a corporation (other than the *Dealer Member*) that carries on non-securities or derivatives related business if:
  - (i) the *Dealer Member* is not responsible for any of that corporation's liabilities. ~~and~~
  - (ii) ~~the Dealer Member and its holding company give the Corporation notice before acquiring an interest in the non-securities or non-derivatives corporation.~~

### PART A.4 - SHARED OFFICE PREMISES

#### 2216. ~~Shared office premises~~General requirements

- ~~(1) For the purposes of section 2216, a "financial services entity" means an entity regulated by a securities regulatory authority or by another Canadian financial services regulatory regime such as banking, mutual funds, insurance, deposit taking, or mortgage brokerage activities.~~
- (21) A *Dealer Member* may ~~share~~use shared office premises ~~with another financial services~~provided that:
  - (i) the client clearly understands-is clearly informed of which legal entity, ~~whether or not they are related companies or affiliate companies, in accordance with section 2216. This section applies to Dealer Members dealing with retail clients.~~
  - (3) ~~A Dealer Member must ensure that clients clearly understand which legal entity they are dealing with.~~
    - (ii) privacy and confidentiality of records are maintained, and
    - (4) ~~ii) A Dealer Member's~~adequate supervisory policies and procedures must specifically address:

Commented [IIAC2]: To create an objective standard.

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- ~~(i) — supervision of *shared office premises*,~~
- ~~(ii) — representative compliance with *Corporation requirements*, and~~
- ~~(iii) — that clients clearly understand which entity they are dealing with. are established, maintained and applied pursuant to section 3918.~~

### 2217. Signage and disclosures

- (51) An *Investment Dealer Member* must have:
  - ~~(i) — adequate supervisory resources to carry out its supervisory procedures,~~
  - ~~(ii) — a system for communicating *Corporation requirements* to representatives at the using shared office premises, and~~
  - ~~(iii) — a process that provides reasonable assurance representatives understand and comply with *Corporation requirements*.~~
- (6) ~~A *Dealer Member's shared office premises* must be laid out and operated in a manner that ensures the control and confidentiality of client information and client *records* by ensuring that client *records* and account process areas are effectively controlled and physically secure.~~
- (7) ~~A *Dealer Member* must have appropriate signs and disclosure which differentiates the entities sharing the premises.~~
- (82) The legal names under which the *Investment Dealer Member* and each of the other *financial services* entities ~~operate~~ in the *shared office premises* operates must be clearly displayed in a prominent location, such as the office entrance door or reception area.
- (93) The logo and brochures required to be used by the ~~investor protection fund in which they are a member~~ *Corporation Membership Disclosure Policy* and the *IPF Disclosure Policy* must be displayed in a manner that makes it clear that the logo and brochures are applicable only to the *Dealer Member* and not to any other *financial services* entity. -
- ~~(10) When doing business in the *shared office premises*, a~~

### 2218. Privacy and confidentiality

- (1) ~~A *Dealer Member's shared office premises* must comply with Part E of Rule 2200~~ be laid out and operated in a manner that ensures the control and confidentiality of client information by ensuring that client *records* and account process areas are effectively controlled and physically secure.
- (112) A *Dealer Member* must keep client *records* separate from the records of another *financial services* entity in the *shared office premises* as follows:
  - (i) the *financial services* entity sharing the premises must not have access to the client's hard copy *records*, and
  - (ii) electronic *records* must have separate passwords or another similar control to ensure the *financial services* entity sharing the premises has no access to the electronic client *records* of the *Dealer Member*.
- (123) When a *Dealer Member*, ~~operating in a~~ using *shared office premises* opens an account, the *Dealer Member* must obtain the client's specific acknowledgement of a written disclosure statement:

Commented [IIAC3]: For clarity that reconfiguration of premises is not required.

## DEALER AND CONSOLIDATED RULES

- (i) outlining the relationship between the *Dealer Member* and the *financial services* entity sharing the premises, and
  - (ii) stating that the entities are separate.
- (134) A *Dealer Member* must keep client information confidential and can only share the information with ~~other *financial services* entities~~ another entity in the *shared office premises* if:
- (i) the client has consented to the disclosure of confidential information in compliance with applicable federal, provincial, and territorial privacy legislation and regulations, and
  - (ii) ~~the client has consented to the disclosure of client information through a specific confirmation such as a signature or initials at a designated place. A *Dealer Member* must not obtain a client's consent through a negative consent option.~~
- (145) An employee who works for both the *Dealer Member* and another *financial services* entity in the *shared office premises* must not disclose client information from one ~~organization~~ entity to the other unless performing a relevant service that the client has specifically consented to and the client has consented to the disclosure of the client information.

Commented [IIAC4]: Unnecessary due to i)

### 2219. Permitted and restricted activities

- (151) Non-registered personnel employed by the *Dealer Member* or representatives of ~~the *financial services* another~~ entity ~~may not provide the following services on behalf of the *Dealer Member*:~~
- ~~(i) opening accounts,~~
  - ~~(ii) distributing or receiving order forms for securities transactions,~~
  - ~~(iii) assisting clients to complete order forms for securities transactions,~~
  - ~~(iv) giving recommendations or any advice on any activity,~~
  - ~~(v) completing know your client information on an account application, other than biographical information, and~~
  - ~~(vi) soliciting securities transactions.~~
- (16) ~~Non-registered personnel employed by the *Dealer Member* or representatives of the *financial services* entity~~ in the *shared office premises* may provide the following services on behalf of the *Dealer Member*:
- ~~(i) (i) advertising the *Dealer Member's* services and products,~~
  - ~~(ii) (ii) delivering or receiving clients' securities,~~
  - ~~(iii) (iii) arranging client appointments or informing of deficiencies on completed forms,~~
  - ~~(iv) (iv) providing the status, balances, and holdings of client accounts,~~
  - ~~(v) (v) providing quotes and other market information,~~
  - ~~(vi) (vi) contacting the public, inviting the public to seminars, and forwarding non-securities information,~~
  - ~~(vii) (vii) distributing account applications, subject to subsection 2246(172219(2)), and~~

## DEALER AND CONSOLIDATED RULES

- ~~(viii)~~ ~~(viii)~~ receiving completed account applications to forward to the *Dealer Member* for approval.
- (172) ~~At the shared office premises, a manager, assistant manager or credit officer of the financial services~~ Non-registered personnel employed by the Dealer Member or a representative of another entity in the shared office premises who has a high degree of knowledge about the client's financial affairs may help the client to complete the account application, if:
- ~~(i)~~ ~~(i)~~ no *Approved Person* is available,
  - ~~(ii)~~ ~~(ii)~~ the client's ~~Registered Representative, Portfolio Manager or Associate Portfolio Manager~~ complies Approved Person primarily responsible for compliance with Corporation requirements relating to know-your-client and suitability determination ~~by reviewing~~ reviews the account application with the client before any trade is conducted or a recommendation is made to a client, and
  - ~~(iii)~~ ~~(iii)~~ a *Supervisor* has approved the account application before any trade is conducted for a client.
- (18) ~~A mutual fund sales person may only accept orders for accounts at the dealer which they are registered with and may not:~~
- ~~(i)~~ ~~offer, or advise clients on, equities or other~~ 3) Non-registered personnel employed by the Dealer Member or representatives of another entity in the shared office premises may not provide the following services on behalf of the Dealer Member:
    - (i) opening accounts.
    - (ii) distributing or receiving order forms for securities or derivatives transactions for specific proficiency is required, or
    - ~~(iii) communicate those client orders to a qualified person.~~
  - ~~2217. – 2219. Reserved.~~
  - ~~(iii)~~ assisting clients to complete order forms for securities or derivatives transactions.
  - ~~(iv)~~ giving recommendations or any advice on any activity.
  - ~~(v)~~ completing know-your-client information on an account application, other than biographical or administrative information, and
  - ~~(vi)~~ soliciting securities or derivatives transactions.

Commented [IIAC5]: For clarification

## PART B - DEALER MEMBER MEMBERSHIP CHANGES

### 2220. Introduction

- (1) Part B of Rule 2200 sets out how the *Corporation* deals with changes to the *Membership* of *Dealer Members*.

### 2221. Notice of intention to resign

- (1) If a *Dealer Member* intends to resign, it must notify the *Corporation* in writing of its intention by filing a letter of resignation. ~~The~~



## DEALER AND CONSOLIDATED RULES

- (2) Within one week of receiving a letter of resignation under subsection 2221(1), the Corporation will issue a ~~Notice~~public notice advising of the *Dealer Member's* intention ~~to resign within one week of receiving a Dealer Member's intent~~ to resign.

### 2222. Letter of resignation and supporting documents

- (1) A resigning *Dealer Member* must state its reasons for resigning in its resignation letter and file the following supporting documents with the *Corporation*:
- (i) audited financial statements indicating the *Dealer Member* has liquid assets sufficient to meet its outstanding liabilities other than subordinated loans, and
  - (ii) a report from the *Dealer Member's auditor* indicating that all client accounts and assets have been transferred to another *Dealer Member* or returned to the clients.

### 2223. Acquisition and resignation

- (1) If all or a substantial part of the business and assets of a resigning *Dealer Member* is acquired by another *Dealer Member*, the resigning *Dealer Member* must provide the *Corporation* with:
- (i) either:
    - (a) an undertaking from the acquiring *Dealer Member* accepting responsibility for all outstanding liabilities of the resigning *Dealer Member*, or
    - (b) the documents required under section 2222, and
  - (ii) pro forma financial statements of the acquiring *Dealer Member* showing compliance with *Corporation requirements* relating to capital requirements.

### 2224. Amalgamation of Dealer Members

- (1) If two or more *Dealer Members* are amalgamated, the *Dealer Members* not continuing due to the amalgamation must surrender their *membership*. The continuing *Dealer Member* must provide the *Corporation* with:
- (i) an undertaking that it accepts responsibility for all liabilities of the *Dealer Members* that are amalgamating, and
  - (ii) pro forma financial statements of the continuing *Dealer Member* showing compliance with *Corporation requirements* relating to capital requirements.

### 2225. Amalgamation with a non-Dealer Member

- (1) A *Dealer Member* may amalgamate with a non-*Dealer Member* if the continuing *Dealer Member* provides the *Corporation* with:
- (i) information, satisfactory to the *Corporation*, confirming that the continuing *Dealer Member* will have policies and procedures sufficient to carry on its business and comply with *Corporation requirements*, and
  - (ii) pro forma financial statements of the continuing *Dealer Member* showing compliance with *Corporation requirements* relating to capital requirements.

### 2226. Effective date of resignation

- (1) Resignation of a *Dealer Member* is effective on the date following the day on which the following conditions have all been satisfied:

## DEALER AND CONSOLIDATED RULES

- (i) the *Corporation* has received the documents required to support the resignation,
  - (ii) the *Corporation* has received payment of any amount owed to it,
  - (iii) the *Corporation* has confirmed that no complaints or disciplinary actions are outstanding that the *Corporation*, in its sole discretion, determines must be resolved prior to permitting the *Dealer Member* to resign, and
  - (iv) the [Board/Corporation](#) has approved the *Dealer Member's* resignation.
- (2) Notwithstanding the above, and without limiting the discretion that the [Board/Corporation](#) may have to exempt a *Dealer Member* from any [Board/Corporation](#) requirement, where circumstances warrant, the *Corporation* may exercise discretion to postpone the effective date of a *Dealer Member's* resignation.
- (3) ~~The~~ [Within one week of all conditions under subsection 2226\(1\) being satisfied, the](#) *Corporation* will issue a [public](#) notice ~~within one week of the effective date of a *Dealer Member's* resignation~~ advising of the effective date of the *Dealer Member's* resignation.

### 2227. Payment of Corporation fees

- (1) A resigning, suspended, terminated or surrendering *Dealer Member* must make full payment of its annual membership fees for the entire fiscal year in which its resignation, suspension, termination or surrender becomes effective, subject to the exception set out in subsection 2227(2).
- (2) A resigning, suspended or terminated *Dealer Member* may make payment of its membership fees until the end of the fiscal quarter in which the following conditions have been met:
  - (i) the *Dealer Member* has transferred all customer accounts to another *Dealer Member*,
  - (ii) the *Dealer Member* has no remaining *Approved Persons* other than shareholders, the *Ultimate Designated Person*, the *Chief Compliance Officer* and the *Chief Financial Officer*, and
  - (iii) in the case of a resigning *Dealer Member*, the *Dealer Member* has provided written notice of its resignation to the *Corporation*.

### 2228. Inactive Dealer Members

- (1) A *Dealer Member* may apply to the [Board/Corporation](#) to have its *membership* status temporarily changed to inactive. *Dealer Members* must file their applications in writing and must include reasons for the requested change.
- (2) The [Board/Corporation](#) must impose a time limit and may impose conditions on a *Dealer Member's* inactive status.
- (3) When a *Dealer Member's* status changes to inactive, the *Corporation* must ~~publish~~[issue](#) a [public](#) notice indicating so.
- (4) A *Dealer Member* with inactive status may apply in writing to the [Board/Corporation](#) for an extension to the time period of its inactive status if:
  - (i) the written application is made at least 30 days before the *Dealer Member's* inactive status expires, and
  - (ii) the inactive status period has not been extended previously.

## DEALER AND CONSOLIDATED RULES

- (5) When a *Dealer Member's* inactive status or the extension to the period of time established by the ~~Board~~ Corporation for inactive status expires, the *Dealer Member's* status will automatically revert to that of an active Dealer Member.

2229. – 2244. Reserved.

### PART C – ~~BUSINESS CHANGE~~ NOTIFICATION REQUIREMENTS

#### 2245. Introduction

- (1) The *Corporation* may review ~~the proposed~~ changes in a *Dealer Member's* business, listed in section 2246, to ensure ~~they meet:~~
- (i) the Dealer Member is adequately prepared to make the change without unduly impacting its clients greater impact to its clients than is necessary to make the change.
  - (ii) the change is carried in accordance with Corporation requirements, and
  - (iii) the change is in not contrary to the public interest.

Commented [IIAC6]: Housekeeping/clarification

#### 2246. Dealer Member's notice of changes to the Corporation

- (1) A *Dealer Member* must notify the *Corporation* in writing a minimum of 20 days before:
- (i) changing its name,
  - (ii) changing its constitution in a way that affects voting rights,
  - ~~(iii)~~ (iii) setting up or acquiring interest in 10% or more of a related company or associate
  - ~~(iv)~~ (iv) taking any steps to dissolve, wind up, surrender its charter, liquidate or dispose of all or substantially all its assets, or
  - ~~(iv)~~ (v) altering its capital structure including, allotting, issuing, repurchasing, redeeming, canceling, subdividing or consolidating of any shares in its capital.
- (2) A *Dealer Member* must notify the *Corporation* in writing a minimum of 20 days before any material change to its business activities.
- (3) A Dealer Member not previously approved for margin accounts must notify in writing and receive written approval from the Corporation  
before offering clients leverage :
- ~~(i)~~ (i) offering retail clients any highly leveraged securities or derivatives, or
  - ~~(ii)~~ (ii) offering retail clients previously approved highly leveraged securities or derivatives that are to be based on a new underlying interest.

Commented [IIAC7]: Per 2206(1). Rule 2247 provides CRO ability to assert that approval is required.

Commented [IIAC8]: To clarify expectations. Margin limits and suitability requirements are determined by other CRO Rules.

#### 2247. Notice of review

- (1) A *Dealer Member* must not make any of the changes listed in ~~section 2246~~ subsections 2246(1) and 2246(2) if, within the 20 -day notice period, the *Corporation* informs the *Dealer Member* that it will be reviewing the proposed change and the change will require *Corporation* approval.

2248. – 2264. Reserved.

### PART D - BRANCH OFFICES OF DEALER MEMBERS

#### 2265. Introduction

## DEALER AND CONSOLIDATED RULES

- (1) Part D of Rule 2200 describes how *Dealer Members'* branch offices participate in the *Corporation* and its *Regions*.

## DEALER AND CONSOLIDATED RULES

### 2266. Branch office members

- (1) Every *Dealer Member's business location* in a *Region* with a *Supervisor*, who is normally present at the *business location*, is a branch office member of the *Region*.

### 2267. Branch office member's representation

- (1) A branch office member may participate in governing the *Region* in which the branch office is located, as follows:
  - (i) it has the same privileges in its *Region* as any other branch office member, except that at a *Region* meeting, a *Dealer Member* only has one vote in the *Region*, no matter how many branch office members it has, and
  - (ii) its *Region* representative is eligible for election as chair, vice-chair or member of the *Regional Council* for that *Region*.

### 2268. Fees

- (1) A *Dealer Member* does not have to pay an annual fee or entrance fee for its branch office members.

### 2269. – 2279. Reserved.

## PART E - TRADE NAMES AND DISCLOSURES

### 2280. Introduction

- (1) Part E of Rule 2200 ~~covers~~[sets out requirements for](#) a *Dealer Member's* use of trade names, *Corporation* membership disclosure and *Investor Protection Fund* membership disclosure.

### 2281. Trade names

- (1) If a *Dealer Member* carries on business under a *trade name*, the *trade name* must be owned by the *Dealer Member*, an *Approved Person* of the *Dealer Member* or an *affiliate* of the *Dealer Member*.
- (2) An *Approved Person* must not conduct any business under a *trade name* that is not owned by the *Dealer Member* or its *affiliate* without the *Dealer Member's* prior consent.
- (3) A *Dealer Member* or *Approved Person* must not use a *trade name* that any other *Dealer Member* uses unless:
  - (i) the *Dealer Members* are *related companies* or *affiliate companies*, or
  - (ii) the relationship with the other *Dealer Member* is that of *introducing broker* and *carrying broker*.
- (4) A *Dealer Member* or *Approved Person* must not use a deceptive or misleading *trade name*.

### 2282. Corporation notification

- (1) A *Dealer Member* must notify the *Corporation* before it:
  - (i) uses any *trade name* other than the *Dealer Member's* legal name, or
  - (ii) transfers a *trade name* to another *Dealer Member*.
- (2) The *Corporation* may prohibit a *Dealer Member* or *Approved Person* from using a *trade name* that is:

## DEALER AND CONSOLIDATED RULES

- (i) contrary to sections 2281, 2282 or 2283,
- (ii) contrary to the public interest, or
- (iii) otherwise objectionable.

### 2283. Displaying the full legal name

- (1) A *Dealer Member* must include its full legal name on all contracts and materials used to communicate with the public, whether or not it uses a *trade name*.
- (2) An *Approved Person* that uses a *trade name* different from that of the *Dealer Member* on materials used to communicate with the public must also include the *Dealer Member's* full legal name in size at least equal to that of the *Approved Persons' trade name*.
- (3) Materials used to communicate with the public include, but are not limited to the following: ~~letterhead, business cards, invoices, trade confirmations, monthly statements, websites, advertisements, client communications,~~ research reports and ~~advertisements, sales communications.~~

### 2284. Investor protection fund membership disclosure requirements for Dealer Members

- (1) A *Dealer Member* must disclose to its clients in accordance with the IPF Disclosure Policy:
  - (i) that it is a member of an investor protection fund,
  - (ii) the name of the investor protection fund, and
  - (iii) the investor protection fund coverage available for eligible accounts,  
~~in accordance with the IPF Disclosure Policy.~~

### 2285. Corporation membership disclosure requirements for Dealer Members

- (1) A *Dealer Member* must disclose to its clients in accordance with the Corporation Membership Disclosure Policy:
  - (i) that it is regulated, and
  - (ii) the name of its regulator,  
~~in accordance with the Corporation Membership Disclosure Policy.~~

### 2286. –2299. Reserved.

## RULE 2300 | PRINCIPAL AND AGENT RELATIONSHIPS

## 2301. Introduction

- (1) Rule 2300 ~~describes the~~sets out requirements ~~of relationships between~~for a Dealer Member when engaging an agent to conduct securities and derivatives related business on its behalf.

## 2302. Principal and agent relationships

- (1) An individual who conducts securities and derivatives related business on behalf of a Dealer Member must be an employee (which includes an agent) of the Dealer Member.
- (2) ~~With the exception of the arrangement permitted in subsection 2302(3), a Dealer Member~~ must not allow a corporation or other non-individual entity to conduct securities and derivatives related business on its behalf.
- (3) Any remuneration, gratuity, benefit or other consideration in respect of business conducted by an individual on behalf of the Dealer Member may be paid by the Dealer Member to a corporation that is not registered under securities laws provided:
- (i) the individual:
- (a) is either:
- (I) approved as a Registered Representative dealing in mutual funds only pursuant to clause 2602(3)(vii), or
- (II) registered as a Mutual Fund Dealer - Dealing Representative pursuant to applicable securities laws,
- and
- (b) acts as an agent of a Dealer Member:
- (I) that is registered as a mutual fund dealer, and
- (II) in compliance with the requirements set out in Rule 2300,
- (ii) the arrangement is not prohibited or otherwise limited by the relevant securities laws or securities regulatory authorities,
- (iii) the corporation is incorporated under the laws of Canada or a province or territory of Canada, and
- (iv) the individual, Dealer Member and the unregistered corporation have entered into a written agreement, in a form prescribed by the Corporation, the terms of which provide that:
- (a) the individual and Dealer Member have the same:
- (I) obligations to comply with applicable Corporation requirements and securities laws, and
- (II) liabilities to third parties, including clients irrespective of the method by which any remuneration, gratuity, benefit or other consideration is disbursed,
- (b) the Dealer Member shall engage in appropriate supervision with respect to the conduct of the individual and the unregistered corporation to ensure

**Commented [IIAC1]:** Due to pending policy options for leveling advisor compensation, and public comments previously provided in respect of same, Rules 2302 and 2303 should be excluded from Phase 3 consultation

compliance with the requirements in sub-clause 2302(3)(v)(a) and all other applicable Corporation requirements, and

- (c) the individual and the unregistered corporation shall provide the Dealer Member, the Corporation and the applicable securities regulatory authorities with access to all books and records maintained by or on behalf of either of them for the purpose of ensuring compliance with the Corporation requirements and securities laws.
- (4) Subsection 2302(3) does not apply in respect of any remuneration, gratuity, benefit or other consideration derived from a client in Alberta.

**2303. Written agreement between the Dealer Member and the Corporation**

- (1) Before engaging any agents to conduct securities and derivatives related business, a Dealer Member must enter into a written agreement with the Corporation.
- (2) The written agreement must contain terms describing the Dealer Member's responsibility:
- (i) for the agent's conduct, including the agent's compliance with Corporation requirements and securities laws, and
  - (ii) to clients for the agent's acts and omissions relating to the Dealer Member's business.
- (3) The Corporation must be satisfied with the form of the written agreement.
- (4) The written agreement must be in a form similar to the following:

**"Agreement between a Dealer Member and the Corporation**

**1. Recitals**

- (i) As a Dealer Member of [Name of Corporation], the Dealer Member agrees it is subject to Corporation requirements.
- (ii) Section 2303 of the Corporation ~~Investment~~ Dealer and ~~Partially Consolidated~~ Consolidated Rules, "Written agreement between the Dealer Member and the Corporation", requires the Dealer Member to make this agreement with the Corporation.
- (iii) This agreement is in addition to and does not alter Corporation requirements or any other agreement between the Dealer Member and the Corporation.

**2. Agreement with the Agent**

- (i) The Dealer Member must enter into a written agreement with each of its agents as required by section 2304 of the Corporation ~~Investment~~ Dealer and ~~Partially Consolidated~~ Consolidated Rules, "Written agreement between the Dealer Member and its agents", and any successor rules relating to principal and agent relationships.
- (ii) The agreement must require that the agent complies with all applicable laws and Corporation requirements.

**3. Supervision of the Agent**

The Dealer Member must treat each of its agents as employees with respect to:

- (i) administration of Corporation requirements,



- (ii) supervision of the agent under Corporation requirements, and
- (iii) ensuring its agents comply with all applicable laws and Corporation requirements.

**4. Written Disclosure of Respective Responsibilities to Clients**

The Dealer Member or the agent must disclose to clients at the time of opening an account:

- (i) the list of *securities and derivatives related business activities* conducted by the agent for which the Dealer Member is responsible, and
- (ii) that the Dealer Member is not responsible for any other business activity conducted by the agent.

**5. Disclosure to Clients**

The disclosure to clients must be made using the following language in the account application:

“If your investment advisor is an agent of [the Dealer Member name], [Dealer Member name] is irrevocably liable to you for any acts and omissions of your investment advisor with regard to [Dealer Member name] business as if the investment advisor were an employee of [Dealer Member name]. By continuing to deal with our firm, you accept our offer of indemnity.”

**6. Disclosure by Agent**

Where the disclosure described in 4(i) and (ii) is made by the agent, the Dealer Member must ensure that the agent has made the disclosure directly to the clients.

**7. Regulatory Authority of the Corporation**

The Dealer Member acknowledges that the Corporation has the authority to regulate and enforce the provisions set out in the Dealer Member and agent agreement.

**8. Governing Laws**

This agreement is governed by the laws of [applicable province] and the laws of Canada.

**9. Continuing Benefit**

The agreement is for the benefit of and binding upon the parties and their successors and assigns. The Dealer Member may not assign the agreement without the Corporation’s prior written consent.

DATED as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

[DEALER MEMBER]

\_\_\_\_\_  
[NAME AND TITLE OF SIGNING INDIVIDUAL]

”

**2304. Written agreement between the Dealer Member and its agents**

- (1) The Dealer Member and the agent who conducts *securities and derivatives related business* must enter into a written agreement.

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- (2) The written agreement must not contain any terms inconsistent with *Corporation requirements* or *securities laws*.
- (3) The *Corporation* must be satisfied with the form of the written agreement before the *Dealer Member* finalizes the agreement with the *agent*.
- (4) The *Dealer Member* must certify to the *Corporation* that the written agreement complies with Rule 2300 and any other applicable *Corporation requirements*.
- (5) The *Corporation* may request that the *Dealer Member* obtain a legal opinion confirming subsection 2304(4).
- (6) The *Corporation* must be satisfied that the written agreement complies with *applicable laws* relating to tax matters.
- (7) The written agreement must contain the following minimum terms:
  - (i) **Compliance with the applicable laws**

The *agent* and the *Dealer Member* confirm that this agreement does not violate *applicable laws*.
  - (ii) **Confirmation of supremacy of Corporation requirements**

The *agent* and the *Dealer Member* confirm that:

    - (a) this agreement is made in compliance with *Corporation requirements*,
    - (b) if there is an inconsistency between this agreement and any applicable *Corporation requirements*, the *Corporation requirements* will prevail,
    - (c) any inconsistent terms will be deemed severed and deleted,
    - (d) The *Corporation* has the authority to regulate and enforce the provisions set out in this agreement, and
    - (e) this agreement will be interpreted and enforced to give full effect to any applicable *Corporation requirements*.
  - (iii) **Compliance by the agent with applicable laws, securities laws, and Corporation requirements**
    - (a) The *agent* warrants to the *Dealer Member* that it is appropriately registered or licensed, in good standing and in compliance with all *applicable laws, securities laws* and *Corporation requirements*.
    - (b) The *agent* covenants to comply with all *applicable laws, securities laws* and *Corporation requirements*.
    - (c) The *agent* agrees to be bound by and comply with the warranties and covenants above throughout the term of the agreement.
  - (iv) **Conduct of the agent's business**
    - (a) The *agent* agrees to conduct all business in the *Dealer Member's* name, subject to sections 2281 through 2283 relating to the use of trade names.
    - (b) The *agent* agrees to conduct all *securities and derivatives related business activities* through the *Dealer Member*.
  - (v) **Supervision of the agent by the Dealer Member**

## DEALER AND CONSOLIDATED RULES

The *Dealer Member* agrees to be:

- (a) responsible for the supervision of the *agent's* conduct to provide reasonable assurance of the *agent's* compliance with *Corporation requirements* and the requirements of any other *securities regulatory authority* to which the *Dealer Member* is subject, and
  - (b) liable to clients (and other third parties) for the *agent's* conduct as if they were an *employee*.
- (vi) **Written disclosure to clients**  
If the *Dealer Member* and the *agent* have agreed that the *agent* will advise the clients directly:
- (a) the list of *securities and derivatives related business activities* conducted by the *agent* for which the *Dealer Member* is responsible, and
  - (b) that the *Dealer Member* is not responsible for any other business activity conducted by the *agent*,
- the *Dealer Member* agrees to be responsible for ensuring that the *agent* has done so.
- (vii) **Dealer Member assumes responsibility for clients**
- (a) In the event that:
    - (I) the *Corporation* or another *securities regulatory authority* has advised the *Dealer Member* that it has started an investigation relating to allegations of misconduct by the *agent*, or
    - (II) the *Dealer Member* has reasonable grounds to believe that the *agent* has contravened or may be contravening one or more *Corporation requirements* or *securities laws*,the *Dealer Member* may immediately and without notice to the *agent*, assume responsibility for the client to the exclusion of the *agent*.
  - (b) The *agent* may not have any dealings or communications with the client as long as the *Dealer Member* has assumed this responsibility.
  - (c) The *Dealer Member* may designate another qualified *person* to provide services to the client, and that *person* may receive any *remuneration* that would have been paid to the *agent*.
- (viii) **Outside activities**
- (a) The *agent* agrees not to conduct any outside activity without disclosing to and obtaining the written consent of the *Dealer Member*.
  - (b) If the *agent* is involved in an outside activity, the *Dealer Member* agrees to monitor and enforce compliance with the terms of this agreement directly and not through another employer or principal of the *agent*.
  - (c) The *agent* agrees to ensure that the outside activity will not interfere with the *Dealer Member* or the *Corporation* monitoring and enforcing compliance by the *agent* with this agreement or *Corporation requirements*.

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(ix) **Access to premises**

The *agent* agrees to give the *Dealer Member* unrestricted access to the premises where the *agent* conducts *securities and derivatives related business* on the *Dealer Member's* behalf.

(x) **Records**

The *agent* agrees that the books and records kept by the *agent* for the *Dealer Member's* business:

- (a) will conform to *Corporation requirements*,
- (b) are the *Dealer Member's* property,
- (c) are available at all times for review by and delivery to the *Dealer Member*, and
- (d) shall be delivered to the *Dealer Member* on termination of the agreement.

(xi) **Insurance**

The *Dealer Member* agrees to maintain financial institution bond and insurance policies that cover the *agent's* conduct relating to the *securities and derivatives related business activities* they conduct for the *Dealer Member*.

(xii) **Assignment of agreement**

The *agent* acknowledges that the *Dealer Member* has the right to assign to the *Corporation* any or all of the *Dealer Member's* rights to enforce the terms of this agreement that relate to *Corporation requirements*.

2305. – 2399. Reserved.

**SERIES 4000 | DEALER MEMBER FINANCIAL AND OPERATIONAL RULES**

**RULE 4700 | OPERATIONS – BUSINESS CONTINUITY AND ~~GENERAL~~ TRADING AND DELIVERY STANDARDS**

**4701. Introduction**

- (1) Rule 4700 sets out the following requirements relating to *Dealer Member* operations:
  - Part A - Business continuity plan  
[sections 4710 through ~~4714~~4716]
  - Part B - ~~General~~ Trading and delivery standards applicable to ~~all~~ centrally cleared transactions  
[sections 4750 through ~~4761~~ 4756]
  - Part C - Trading and delivery standards applicable to specific transactions  
[sections 4770 through 4776]

**4702. - 4709. Reserved.**

**PART A - BUSINESS CONTINUITY PLAN**

**4710. Introduction**

- (1) To manage risk prudently and maintain investor confidence, *Dealer Members* must ensure they can continue to carry on business after a *significant business disruption* and provide clients with prompt access to their assets.

**4711. Definitions**

- (1) The following term has the meaning set out below when used in Part A of Rule 4700:

<p><u>“significant business disruption”</u> <i>(perturbation importante des affaires)</i></p>	<p><u>A cybersecurity incident or any other incident that may result in a significant impairment in substantial harm to a client access to their security, precious metals bullion or derivative positions of accounts or to the client's ability to liquidate or close out their account positions.</u></p>
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**Commented [IIAC1]:** This proposed definition focuses on investor harm.

**4712. Creating a business continuity plan**

- (1) A *Dealer Member* must establish and maintain a business continuity plan.

**~~4712~~4713. Business continuity plan procedures**

- (1) A *Dealer Member's* business continuity plan must identify the procedures it will take to deal with a *significant business disruption*.
- (2) The procedures in subsection ~~4712(1)~~4713(1) must be based on the *Dealer Member's* assessment of its key business functions and required levels of operation during and following a disruption.

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- (3) The procedures in subsection ~~4712(1)~~4713(1) must provide reasonable assurance the *Dealer Member* stays in business long enough to meet its obligations to its clients and capital markets counterparties after a *significant business disruption*.

### ~~4713~~4714. Update business continuity plan

- (1) A *Dealer Member* must update its business continuity plan to reflect any significant change in any of its operations, structure, business, or locations.

### ~~4714~~4715. Annual review and test

- (1) Every year:
- (i) a *Dealer Member* must review and test, and
  - (ii) an appropriate *Executive* must approve, its business continuity plan.
- (2) During its annual review, a *Dealer Member* must make any modifications to its business continuity plan that are necessary due to changes in its operations, structure, business, or locations.
- (3) The *Corporation* may require a qualified third party to carry out the annual review and test.

## 4715

### 4716. Notice of disruption and invoking the business continuity plan

- (1) Where a significant business disruption occurs, the Dealer Member must
- (i) notify the Corporation of this incident as soon as reasonably possible after its discovery of the disruption,
  - (ii) include in the notice, details on the disruption and the Dealer Member's proposed course of action to address and resolve the disruption, as well as resulting consequences of the disruption,
  - (iii) indicate in the notice whether the Dealer Member intends to invoke its business continuity plan, and
  - (iv) inform the Corporation of any changes and provide timely updates on the actions set out in the notice, and provide any additional information requested by the Corporation.
- (2) When a Dealer Member invokes its business continuity plan, it must
- (i) notify the Corporation as soon as reasonably possible,
  - (ii) provide details on the circumstances leading the Dealer Member to invoke its business continuity plan and its proposed course of action, and
  - (iii) inform the Corporation of any changes and provide timely updates on the actions set out in the notice, and provide any additional information requested by the Corporation

Commented [IIAC2]: Housekeeping/clarification

Commented [IIAC3]: Housekeeping/clarification

### 4717. – 4749. Reserved.

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**PART B - ~~GENERAL~~ TRADING AND DELIVERY STANDARDS APPLICABLE TO ~~ALL~~ CENTRALLY CLEARED TRANSACTIONS**

**4750. Introduction**

- (1) Part B of Rule 4700 sets out ~~general~~ trading and delivery requirements applicable to ~~all transactions~~ transactions cleared and settled through a clearing corporation. Additional requirements applicable to specific transactions that may be centrally or non-centrally cleared can be found in Part C of Rule 4700. Additional requirements applicable to transactions that are not cleared and settled through a clearing corporation can be found in Part A of Rule 4800.

**4751. Definitions**

- (1) The following terms have the meaning set out below when used in Part B of Rule 4700:

"acceptable trade matching utility" <i>(service d'appariement des opérations acceptable)</i>	The broker-to-broker trade matching utility in <i>CDS's CDSX</i> (defined in section 4502), or a similar system approved by the <i>Corporation</i> . A list of approved acceptable trade matching utilities is updated and published as a notice by the <i>Corporation</i> .
"depository eligible transactions"	<del>Transactions in securities where the affirmation and settlement can be performed through the facilities or services of CDS.</del>
"eligible securities" <i>(titres admissibles)</i>	Securities that are eligible to be deposited in <del>the</del> clearing corporation.
"good delivery securities"	<del>Securities that can be transferred without restrictions and delivered to the buyer of the securities.</del>
"non-exchange trade" <i>(opération hors bourse)</i>	Any trade in a <i>CDS eligible security</i> (excluding new issue trades and repurchase agreement transactions and reverse repurchase agreement transactions) between two <i>Dealer Members</i> , which has not been submitted to the <i>CDS</i> continuous net settlement service by a <i>Marketplace</i> or an <i>acceptable foreign marketplace</i> . A non-exchange trade includes the dealer to dealer portion of a jitney trade that is executed between two <i>Dealer Members</i> that is not reported by a <i>Marketplace</i> or an <i>acceptable foreign marketplace</i> .
"participant"	<del>A participant in a clearing corporation's settlement service.</del>
"qualified Canadian trust company"	<del>A trust company licensed to do business in Canada or a Canadian province with a minimum paid up capital and surplus of \$5,000,000</del>
"settlement service"	<del>A securities settlement service made available by CDS.</del>

**4752. Use of a clearing corporation**

- (1) *Dealer Members* who are *participants* in the same clearing corporation must use the clearing corporation's *settlement service* to settle all trades between themselves involving *eligible securities*, unless both the delivering *Dealer Member* and the receiving *Dealer Member* agree otherwise.

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- (2) If a *Dealer Member* is using a clearing corporation to settle a trade, it must report and settle the trade in accordance with the requirements set out in Part B and Part C of Rule 4700 and the clearing corporation’s rules and procedures.
- (3) If a *Dealer Member* is not using a clearing corporation to settle a trade it must report and settle the trade in accordance with the requirements set out in Part B of Rule 4700 and Part A of Rule 4800.

**4753. Use of a trade matching utility**

- (1) For each *non-exchange trade*, involving *CDS eligible securities*, executed by a CDS participant *Dealer Member* with another CDS participant *Dealer Member*, the *Dealer Member* must at or before 6 p.m. on the day the trade was executed:
  - (i) enter the trade into an *acceptable trade matching utility*, or
  - (ii) accept or reject any trade entered into an *acceptable trade matching utility* by another *Dealer Member*.

**4754. Trade classification where a Dealer Member enters a trade into the matching utility**

- (1) If a *Dealer Member* enters a trade into an *acceptable trade matching utility* under clause 4753(1)(i), the trade is considered for each dealer trade counterparty to be a compliant trade, a “don’t know” (DK) trade or a non-compliant trade according to the following table:

		Action of Dealer Member	
		Enter trade at or before 6 p.m.	Enter trade after 6 p.m.
Action of other Dealer Member	Enter trade at or before 6 p.m.	<i>Dealer Member</i> compliant trade Other <i>Dealer Member</i> compliant trade	<i>Dealer Member</i> non-compliant trade Other <i>Dealer Member</i> compliant trade
	Accept trade at or before 6 p.m.	<i>Dealer Member</i> compliant trade Other <i>Dealer Member</i> compliant trade	
	Enter or accept trade after 6 p.m.	<i>Dealer Member</i> compliant trade Other <i>Dealer Member</i> non-compliant trade	<i>Dealer Member</i> non-compliant trade Other <i>Dealer Member</i> non-compliant trade
	Reject trade at or before 6 p.m.	<i>Dealer Member</i> don’t know or DK trade Other <i>Dealer Member</i> don’t know or DK trade	
	Reject trade after 6 p.m.	<i>Dealer Member</i> don’t know or DK trade Other <i>Dealer Member</i> non-compliant trade	<i>Dealer Member</i> non-compliant trade Other <i>Dealer Member</i> don’t know or DK trade



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		Action of Dealer Member	
		Enter trade at or before 6 p.m.	Enter trade after 6 p.m.
	No action	<i>Dealer Member</i> compliant trade <i>Other Dealer Member</i> non-compliant trade	<i>Dealer Member</i> non-compliant trade <i>Other Dealer Member</i> non-compliant trade

**4755. Trade classification where a Dealer Member does not enter a trade into the matching utility**

- (1) If a *Dealer Member* accepts or rejects a trade entered into an *acceptable trade matching utility* by another *Dealer Member* under clause 4753(1)(ii) or takes no action on a trade entered into an *acceptable trade matching utility* by another *Dealer Member*, the trade is considered for each dealer trade counterparty to be a compliant trade, a “don’t know” (DK) trade or a non-compliant trade according to the following table:

		Action of other Dealer Member	
		Enter trade at or before 6 p.m.	Enter trade after 6 p.m.
<b>Action of Dealer Member</b>	Accept at or before 6 p.m.	<i>Dealer Member</i> compliant trade <i>Other Dealer Member</i> compliant trade	
	Accept after 6 p.m.	<i>Dealer Member</i> non-compliant trade <i>Other Dealer Member</i> compliant trade	<i>Dealer Member</i> non-compliant trade <i>Other Dealer Member</i> non-compliant trade
	Reject at or before 6 p.m.	<i>Dealer Member</i> don’t know or DK trade <i>Other Dealer Member</i> don’t know or DK trade	
	Reject after 6 p.m.	<i>Dealer Member</i> non-compliant trade <i>Other Dealer Member</i> don’t know or DK trade	<i>Dealer Member</i> don’t know or DK trade <i>Other Dealer Member</i> non-compliant trade
	No action	<i>Dealer Member</i> non-compliant trade <i>Other Dealer Member</i> compliant trade	<i>Dealer Member</i> non-compliant trade <i>Other Dealer Member</i> non-compliant trade

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**4756. Trade matching quarterly compliant trade percentage**

~~(1) A Dealer Member must:~~

- ~~(i) promptly report to the Corporation when its quarterly compliant trade percentage is less than 90% in any quarter, and~~
- ~~(ii) include in this report its action plan to improve its percentage.~~

~~(2)~~

- (1) The quarterly compliant trade percentage for a *Dealer Member* is determined by dividing the sum of the quarter's compliant trades (which does not include "don't know" trades) by the total number of *non-exchange trades* that are executed during the quarter by the *Dealer Member* with other *Dealer Members*.
- (32) ~~Failure to increase the~~ Where the Dealer Member's quarterly compliant trade percentage ~~is less than 90% or for more within the next quarter after the first sub-standard report will be grounds for~~ than two consecutive quarters, the Corporation ~~to~~ may pursue disciplinary action.

**4757. – 4769. Reserved.**

**PART C - TRADING AND DELIVERY STANDARDS APPLICABLE TO SPECIFIC TRANSACTIONS**

**4770. Introduction**

- (1) Part C of Rule 4700 sets out trading and delivery requirements applicable to specific transactions which may be centrally cleared or non-centrally cleared.

**4771. Definitions**

- (1) The following term has the meaning set out below when used in Part C of Rule 4700:

<u>"CDS depository eligible transactions" (opérations admissibles à la CDS)</u>	<u>Transactions in securities where the affirmation and settlement can be performed through the facilities or services of CDS.</u>
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**4772. Payment or delivery through client settlement agent**

- (1) For any arrangement where the payment of *securities* purchased or delivery of *securities* sold is to be made to or through a client's settlement agent, all of the following procedures must be followed:
  - (i) the *Dealer Member* receives from the client prior to or at the time of accepting the order the name and address of the settlement agent and account number of the client on file with the settlement agent. Where settlement is made through a depository offering an identification number system for the clients of settlement agents of the depository, the *Dealer Member* must have the client identification number prior to or at the time of accepting the order and use the number in the settlement of the trade,
  - (ii) each order accepted from the client is identified as either a delivery or receipt against payment trade,

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- (iii) the *Dealer Member* provides to the client a confirmation according to Rule 3800,
  - (iv) the *Dealer Member* has obtained an agreement from the client stating that the client will:
    - (a) promptly provide its settlement agent with instructions regarding the transaction following its receipt of the transaction confirmation from the *Dealer Member*, or the relevant date and information as to each execution from the *Dealer Member*, relating to such order (even though such execution represents the purchase or sale of only a part of the order), and
    - (b) ensure that its settlement agent affirms the transaction no later than the ~~next business~~end of the day after on the date of execution of the trade to which the confirmation relates,
- and
- (v) the client and its settlement agent must use the facilities or services of *CDS* for the affirmation and settlement of all *CDS* depository eligible transactions through such facilities or services including book based or certificated settlement. This clause ~~4757(1)4772(1)~~(v) applies only to transactions:
    - (a) to be settled in Canada, and
    - (b) where both the *Dealer Member* and the settlement agent are *CDS* participants ~~of *CDS*~~ or the same facilities or services of *CDS* are required in respect of the trade.

### ~~4758~~4773. Early registration of securities

- (1) Prior to the receipt of payment, a *Dealer Member* must not register any *security*, with the exception of a new issue on a date before the close date, in the name of the client or his or her nominee. A *Dealer Member's* absorption of bank or other charges incurred by a client or his or her nominee for the registration of a *security* will be considered an infraction of this requirement.
- (2) After the receipt of payment, a *Dealer Member* may absorb transfer fees incurred in the transfer of a *security* according to a client's instructions.
- (3) Despite subsection ~~4758(1)4773(1)~~, a *Dealer Member* may register an *eligible security* in the name of, or in the name of a nominee of, a self-administered registered retirement savings plan registered under the Income Tax Act (Canada) before payment is received if, before the *securities* are registered, a *Dealer Member* obtains an unconditional *guarantee* from the trust company administering the plan.

### ~~4759~~4774. Repurchase agreement or reverse repurchase agreement transactions and option granting transactions with clients

- (1) Before entering into the following transactions a *Dealer Member* must have in writing all terms relevant to the transaction on the face of the contract or if necessary, on an additional page attached to the contract provided those terms are referred to on the face of the contract, with a client:
  - (i) an agreement to purchase or repurchase a *security*,
  - (ii) an agreement to sell or resell a *security*, or

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(iii) the granting of a put, call or similar option involving a *security*.

### ~~4760~~4775. When issued trading

- (1) Unless otherwise provided by the *Corporation* or the parties to the trade agree otherwise:
- (i) all when issued trades made on or before the trading day before the anticipated date of issue of the *security* must be settled on the anticipated date of issue of such *security*,
  - (ii) all when issued trades made ~~on or~~ after the trading day before the anticipated date of issue of the *security* must be settled on the ~~second~~first settlement day after the trade date, and
  - (iii) if the *security* has not been issued on the settlement date in clause ~~4760(1)~~4775(1)(i) or ~~4760(1)~~4775(1)(ii), such trades must be settled on the date that the *security* is actually issued.

### ~~4761~~4776. Tax payments

- (1) A selling *Dealer Member* must pay, or certify payment of, taxes required for a buying *Dealer Member* to transfer the *securities* purchased to nominee name, except in the situation where there is a register in the buying *Dealer Member's* province, and the buying *Dealer Member* chooses to transfer the *securities* to a register outside that province.

~~4762~~4777. – 4799. Reserved.

**RULE 4800 | OPERATIONS – TRADING AND DELIVERY STANDARDS FOR NON-CENTRALLY CLEARED TRANSACTIONS, ACCOUNT TRANSFERS AND BULK ACCOUNT MOVEMENTS**

**4801. Introduction**

- (1) Rule 4800 sets out the following requirements relating to *Dealer Member* operations:
- Part A - Trading and delivery standards applicable to transactions that are not cleared and settled through a clearing corporation:
    - Part A.1 - Fixed income transactions  
[sections ~~4803~~4804 through ~~4806~~4807]
    - Part A.2 - Stock transactions  
[sections ~~4807~~4808 through ~~4809~~4810]
    - Part A.3 - Buy-in transactions  
[section ~~4810~~4811]
  - Part B - Account transfers and bulk account movements
    - Part B.1 - Account Transfers  
[sections 4852 through 4865]
    - Part B.2 - Bulk Account Movements  
[section 4866].

**PART A - TRADING AND DELIVERY STANDARDS APPLICABLE TO TRANSACTIONS THAT ARE NOT CLEARED AND SETTLED THROUGH A CLEARING CORPORATION.**

**4802. Introduction**

- (1) Part A of Rule 4800 sets out additional requirements applicable to transactions that are not cleared and settled through a clearing corporation.

**4803. Definitions**

- (1) The following terms have the meaning set out below when used in Part A of Rule 4800:

<p><u>"good delivery securities"</u> <i>(titres de bonne livraison)</i></p>	<p><u>Securities that can be transferred without restrictions and delivered to the buyer of the securities.</u></p>
<p><u>"qualified Canadian trust company"</u> <i>(société de fiducie canadienne admissible)</i></p>	<p><u>A trust company licensed to do business in Canada or a Canadian province with a minimum paid up capital and surplus of \$5,000,000</u></p>

## PART A.1 – FIXED INCOME TRANSACTIONS

~~4803~~4804. Fixed income accrued interest

- (1) All *securities* having interest payable as a fixed obligation, except *securities* in sale and *repurchase agreement* transactions, must be conducted on an accrued interest basis until maturity or a default in such payment either occurs or is announced by the debtor, whichever is the earlier event. The *Corporation* may set aside this requirement in specific cases where common practice and expediency prompt such action and will give due notice to all *Dealer Members* in such cases.
- (2) Prior to actual default or announcement by the debtor as specified in subsection ~~4803~~(~~4804~~1), sales made of *securities* but undelivered at the time of default or such announcement, must be conducted on an accrued interest basis under the terms of the original transaction.
- (3) Subsequent to default or announcement by the debtor as specified in subsection ~~4803~~(~~4804~~1), the *securities* must be handled on a flat basis with all matured and unpaid coupons attached, until such time as all arrears of interest have been paid and one current coupon has been paid when due.
- (4) Transactions in bonds having coupons payable out of income, if and when earned, must take place on a flat basis. Any matured and unpaid income coupons must be attached. Income bonds that have been called for redemption must continue to be traded on a flat basis even after the call date has been published.
- (5) Transactions in bonds where an issuer has been subject to reorganization or capital adjustment that results in the bondholders receiving as a bonus or otherwise, certain stock or scrip, such transactions must be ex stock or scrip, unless otherwise stated at the time the trade is made. Such bonds must be traded on a flat basis until such time as all arrears have been paid and one current coupon has been paid when due, except where the *Corporation* has determined otherwise.
- (6) Accrued interest on trades in interest paying instruments that pay interest monthly and compound interest monthly must be zero, if the value date of the trade is an interest payment date. Otherwise, the accrued interest on such trades must be calculated by multiplying the face amount of the instrument by the interest rate of the instrument and the number of days between the value date of the trade and the last interest payment date prior to the value date of the trade and dividing the result by twelve multiplied by the number of days between the next interest payment date after the value date of the trade and the last interest payment date prior to the value date of the trade.
- (7) For bonds or debentures that are only available in registered form, transactions made ~~one business~~ ~~on the~~ day ~~before~~ of a regular interest payment and up to ~~two~~ ~~one~~ ~~business~~ ~~days~~ ~~day~~ before the closing of the transfer agent's books for the next interest payment, both days inclusive, will be on an "and interest" basis. The full amount of such interest payment must be deducted by the seller after the calculation of interest on the regular delivery basis, unless delivery is completed to the buyer by 12 p.m. at a transfer point on the date of the closing of the transfer agent's books for a regular interest payment.

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- (8) For bonds or debentures that are only available in registered form, transactions from ~~one business day before~~ the day of closing of the transfer agent's books up to and including ~~two~~one ~~business days~~day before a regular interest payment must be "less interest" from settlement date to the regular interest payment date.
- (9) Where interest on a transaction involves an amount greater than that represented by the half-yearly coupon, interest is to be calculated on the basis of the full amount of the coupon less one or two days, as the case may be.

### ~~4804~~4805. Fixed income trading units

- (1) Section ~~4804~~4805 applies to all transactions between *Dealer Members* regardless of the *Districts* the *Dealer Members* are in.
- (2) In section ~~4804~~4805 "trading units" is defined as follows:
  - (i) Government of Canada
    - (a) \$250,000 par value for Government of Canada direct obligations and Government of Canada guaranteed obligations having an unexpired term of less than one year to maturity (or to the earliest call date, where the transaction is completed at a premium),
    - (b) \$100,000 par value for Government of Canada direct obligations and Government of Canada guaranteed obligations having an unexpired term of one year or longer but three years or less to maturity (or to the earliest call date, where the transaction is completed at a premium),
    - (c) \$100,000 par value for Government of Canada direct obligations and Government of Canada guaranteed obligations having an unexpired term to maturity of longer than three years (where the bond is traded at a premium, the earliest call date shall be treated as the maturity date).
  - (ii) Province of Canada
    - (a) \$25,000 par value for bonds, debentures and other obligations of or guaranteed by a province in Canada.
  - (iii) Other Bonds and Debentures
    - (a) \$25,000 par value for bonds and non-convertible debentures (other than Government of Canada direct obligations and Government of Canada guaranteed obligations and bonds, debentures and other obligations of or guaranteed by a province in Canada) that were not issued with attached stock warrants, rights or other attachments,
    - (b) \$5,000 par value for bonds, convertible debentures or debentures (other than Government of Canada direct obligations and Government of Canada guaranteed obligations and bonds, debentures and other obligations of or guaranteed by a province in Canada) that were issued with attached stock warrants, rights or other attachments.
- (3) A *Dealer Member* calling a market must trade *trading units* if called upon to trade, unless prefixed by some qualifying phrase. Any amount less than one *trading unit* will be considered as an "odd lot".

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- (4) Any *Dealer Member* asking the size of a stated market must be prepared to buy or sell at least a *trading unit* at the price quoted if immediately requested to do so by the *Dealer Member* calling the market.
- (5) Any *Dealer Member* who has been requested to call a market has the option to trade an *odd lot* at the called market (if so requested) or to adjust his market to compensate for the smaller amount involved.

### ~~4805~~4806. Fixed income delivery

- (1) In section ~~4805~~4806 "regular delivery" is defined as:
  - (i) Government of Canada
    - (a) The same day as the transaction date for Government of Canada Treasury Bills.
    - (b) The ~~second~~first *business day* after the transaction date for Government of Canada Bonds and Government of Canada Guaranteed Bonds (except Treasury Bills) having an unexpired term to maturity of three years or less (or to the earliest call date where a transaction is completed at a premium). Any accrued interest must be stopped on the ~~second~~first *business day* after the transaction date.
    - (c) The ~~second~~first *business day* after the transaction date for Government of Canada Bonds and Government of Canada Guaranteed Bonds having an unexpired term to maturity of longer than three years (where such a bond is traded at a premium the earliest call date shall be treated as the maturity date). Any accrued interest must be stopped on the ~~second~~first *business day* after the transaction date.
  - (ii) Province of Canada
    - (a) The ~~second~~first *business day* after the transaction date for all provincial bonds or debentures. Any accrued interest must be stopped on the ~~second~~first *business day* after the transaction date.
  - (iii) Other Bonds and Debentures
    - (a) The ~~second~~first *business day* after the transaction date for all municipal, corporation and other bonds or debentures (other than Government of Canada and Province of Canada treasury bills, bonds or debentures), and other certificates of indebtedness including mortgage-backed *securities*. Any accrued interest must be stopped on the ~~second~~first *business day* after the transaction date.
- (2) All trades are to be considered for *regular delivery*, unless otherwise agreed to in writing by all of the parties to a transaction at the time of the transaction.
- (3) For a deal involving the sale or purchase of more than one maturity, each maturity must be treated as a separate transaction. No contingent (all or none) dealings are permitted.
- (4) New issues delivery
  - (i) The *regular delivery* requirements are not intended to interfere in any way with the common practice of transactions between *Dealer Members* in new issues during the



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- period of primary distribution on an "accrued interest to delivery" basis. However, the *regular delivery* requirements will come into effect on the appropriate number of *business days* prior to the new issue being first available for physical delivery.
- (ii) Where a new issue delivery is made against payment outside of the points fixed for the initial syndicate delivery of the issue, additional accrued interest must be charged from the delivery date at the initial syndicate delivery point of the new issue, according to the length of time normally required for delivery to the locality in which the delivery is made.
  - (iii) For a mortgage-backed *security* transaction made during the period from the ~~second~~first *business day* ~~before of the~~ month ~~end~~ to the first~~fourth~~ *business day* ~~on or before the twelfth day of the following~~ month, inclusive, delivery must take place on or after the ~~fifteenth~~fifth *business day* of the month.
- (5) LocationPhysical Delivery
- (i) For any transaction between *Dealer Members* ~~in the same municipality~~ where physical delivery is to be made, the seller must complete the delivery before ~~4:30 p.m. on a~~close of business ~~day~~ on settlement date.
  - (ii) For any transaction between *Dealer Members* ~~in different municipalities~~, the seller must complete the delivery on the buyer's terms, that is the delivery is to be made by the seller free of banking or shipping charges to the buyer. ~~Where bank drafts are drawn to arrive at their destination on a day that is not a business day, the seller is entitled to have charges paid up to the next business day after the expected arrival of the bank drafts.~~
- (6) Good delivery
- (i) *Securities* traded by *Dealer Members* must be *good delivery securities*. Therefore, they must have the necessary endorsements, *guarantees* or both, and meet all legal and regulatory requirements so that their titles can be transferred by delivery to the buyer on settlement date. The seller must obtain them and include them with the delivery.
  - (ii) *Good delivery securities* may consist of bearer bonds or debentures or registered bonds or debentures.
  - (iii) For good delivery, *securities* that can be traded as actual certificates or as certificates of deposit, delivery must be made in the form of actual certificates, unless stated otherwise at the time of the transaction.
  - (iv) For good delivery, the bonds or debentures are to be of a maximum denomination of \$100,000 par value, unless agreed to otherwise by the buyer.
  - (v) For good delivery, if a power of attorney is necessary for the certificates, one power of attorney for each certificate is required, unless the buyer has agreed otherwise to accept an amalgamated power of attorney.
  - (vi) For good delivery, if definitive certificates are not available interim certificates may be used. However, once definitive certificates are available interim certificates may not be used, unless the *Dealer Members* agree otherwise.

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- (vii) *Good delivery securities* may consist of the following, provided that it is acceptable to the transfer agent:
  - (a) bonds or debentures registered in the name of an *individual*, properly endorsed and with endorsement guaranteed by a *Dealer Member* in good standing of the *Corporation* or an exchange in Canada or the United States, or by a *chartered bank* or *qualified Canadian trust company*,
  - (b) bonds or debentures registered in the name of a *Dealer Member* or nominee of a *Dealer Member* and properly endorsed,
  - (c) bonds or debentures registered in the name of a member of an exchange in Canada or the United States and properly endorsed,
  - (d) bonds or debentures registered in the name of a *chartered bank* or *qualified Canadian trust company* or the nominee of a *chartered bank* or qualified trust company and properly endorsed.
- (7) Not good delivery
  - (i) A mutilated or torn certificate or coupon unless acceptable to the receiving *Dealer Member*.
  - (ii) A certificate registered in the name of a firm or corporation that has made an assignment for the benefit of creditors or has been declared bankrupt.
  - (iii) A certificate signed by a trustee or administrator unless accompanied by sufficient evidence of authority to sign.
  - (iv) A certificate with documents attached other than a registered bond of an issue available in registered form only, with completed power of attorney to transfer attached. (One power of attorney for each certificate or an amalgamated power of attorney if acceptable to receiving broker or dealer).
  - (v) A certificate which has been altered or erased (other than by the transfer agent) whether or not such alteration or erasure has been guaranteed.
  - (vi) A certificate on which the assignment or substitute attorney has been altered or erased.
  - (vii) A certificate with the next maturing coupon or subsequent coupons detached unless where so traded or where a certificate cheque (if for \$1,000 or more) payable to the receiving *Dealer Member*, dated no later than the date of delivery and for the amount of the coupon missing, is attached to the certificate in question.
  - (viii) A bond or debenture, registered as to principal only, which after being transferred to bearer, does not bear the stamp and signature of the trustee.
  - (ix) A registered bond or debenture unless it bears a certificate that provincial tax has been paid where applicable.
  - (x) A certificate that has a stop transfer placed against it, the stop having been placed prior to delivery being made to the receiving dealer or broker.
- (8) Prior to notice of call
  - (i) Sales or purchases of *securities* prior to notice of call in part but not in full and undelivered on date of such notice, must be completed on the basis of the original transaction. Date of notice is the date of the notice of call irrespective of the date of

## DEALER AND CONSOLIDATED RULES

publication of such notice. Called *securities* do not constitute good delivery unless the transaction is so designated at its inception.

- (ii) Sales or purchases of *securities* prior to notice of call in full and undelivered at time of such notice must be completed on the terms of the original transaction.

### ~~4806~~4807. Fixed income redemption payment

- (1) A *Dealer Member* must not pay to a client regarding any maturity the redemption price or other amount due on redemption of such *securities* where the price or amount exceeds \$100,000, unless:
  - (i) the *Dealer Member* has first received an amount equal to such price or other amount from the issuer or its agent by cheque certified by or accepted without qualification by a *chartered bank*, or
  - (ii) the *Dealer Member* has first received or is credited an amount equal to such price or other amount through the facilities of *CDS* or Depository Trust Company.

## PART A.2 – STOCK TRANSACTIONS

### ~~4807~~4808. Stock trading units

- (1) Section ~~4807~~4808 applies to all transactions between *Dealer Members* regardless of the *Districts* the *Dealer Members* are in.
- (2) In section ~~4807~~4808 “trading units” is defined as follows:
  - (i) Common and preferred shares not listed on an exchange in Canada or the United States:
    - (a) in lots of 500 shares, if market price per share is below \$1,
    - (b) in lots of 100 shares, if market price per share is at \$1 and below \$100, or
    - (c) in lots of 50 shares, if market price per share is at \$100 or above.
- (3) A *Dealer Member* calling a market shall be obliged to trade *trading units* if called upon to trade, unless prefixed by some qualifying phrase. Any amount less than one *trading unit* will be considered as an “odd lot”.
- (4) Any *Dealer Member* asking the size of a stated market must be prepared to buy or sell at least a *trading unit* at the price quoted if immediately requested to do so by the *Dealer Member* calling the market.
- (5) Any *Dealer Member* that has been requested to call a market has the option to trade an *odd lot* at the called market (if so requested) or to adjust its market to compensate for the smaller amount involved.

### ~~4808~~4809. Stock delivery

- (1) All trades are to be considered for *regular delivery* (defined in subsection ~~4808(2)~~4809(2)), unless otherwise agreed to in writing by the parties to a transaction at the time of the transaction.
- (2) In section ~~4808~~4809 “regular delivery” is defined as:
  - (i) Exchange-listed shares

## DEALER AND CONSOLIDATED RULES

- (a) The settlement date generally accepted according to industry practice for the shares in the market in which the transaction occurs, including foreign jurisdictions.
- (ii) Unlisted registered shares
  - (a) The settlement date generally accepted according to industry practice for the shares in the market in which the transaction occurs, including foreign jurisdictions.
  - (b) For transactions between *Dealer Members* in shares that occur ~~one-business day before the~~ record date, the shares must be traded ex dividend, ex rights, or ex payments.
  - (c) For transactions between *Dealer Members* in shares that are not ex dividend, ex rights, or ex payments at the time the transaction occurs and delivery is not completed before twelve o'clock noon (12 p.m.) at a transfer point on the date of the closing of the transfer agent's books, the seller is responsible to the buyer for the payment of such dividends or payments, and delivery of such rights, as may be involved, on their due dates. For the purposes of this sub-clause ~~4808(2)4809(2)~~(ii)(c), where the record date falls on a Saturday or other non-business day, the business day prior to the record date is to be treated as the effective record date.
- (3) New issues delivery
  - (i) The *regular delivery* requirements in subsection ~~4808(2)4809(2)~~ are not intended to interfere in any way with the common practice of dealing in new issues during the period of primary distribution. However, the *regular delivery* requirements will come into effect on the appropriate number of *business days* prior to the new issue being first available for physical delivery.
- (4) ~~Location~~Physical Delivery
  - (i) For any transaction between *Dealer Members* ~~in the same municipality, where physical delivery should~~ is to be advised by 11:30 a.m. on the fourth business day after a transaction takes place ~~made, the seller must complete the delivery before close of business on settlement date.~~
  - (ii) For any transaction between *Dealer Members* ~~located in different municipalities, the seller must complete the delivery on the buyer's terms, that is the delivery should~~ is to be received ~~made by the buyer by the expiration of the fourth business day after seller free of banking or shipping charges to the transaction takes~~ buyer.
- (5) Good delivery
  - (i) *Securities* traded by *Dealer Members* must be *good delivery securities*. Therefore, they must have the necessary endorsements, *guarantees* or both, and meet all legal and regulatory requirements so that their titles can be transferred by delivery to the buyer on settlement date. The seller must obtain them and include them with the delivery.
  - (ii) Certificates registered in the name of:

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- (a) an *individual*, must be endorsed by the registered holder in exactly the same manner as registered and the endorsement guaranteed by a *Dealer Member* or by a member of an exchange in Canada or the United States or by a *chartered bank* or *qualified Canadian trust company*. Where the endorsement does not exactly correspond to the registration shown on the face of the certificate, a certification by a *Dealer Member*, a member of an exchange in Canada or the United States, a *chartered bank* or a *qualified Canadian trust company* that the two signatures are the same person's is required,
  - (b) a *Dealer Member* or a member of an exchange in Canada or the United States or a nominee of either and properly endorsed,
  - (c) a *chartered bank* or *qualified Canadian trust company* or the nominee of a *chartered bank* or *qualified Canadian trust company* and properly endorsed by a *Dealer Member*, or
  - (d) any other manner providing it is properly endorsed and the endorsement is guaranteed by a *Dealer Member* or by a member of an exchange in Canada or the United States or by a *chartered bank* or *qualified Canadian trust company*.
- (iii) Certificates in board lot denominations (or less) as required by the exchange on which the stock is traded. Unlisted stocks should also be in denominations similar to listed stocks in the same category and price range.
- (6) Not good delivery
- (i) A mutilated or torn certificate or coupon unless acceptable to receiving broker or dealer.
  - (ii) A certificate registered in the name of a firm or corporation that has made an assignment for the benefit of creditors or has been declared bankrupt.
  - (iii) A certificate signed by a trustee or administrator unless accompanied by sufficient evidence of authority to sign.
  - (iv) A certificate with documents attached other than a registered bond of an issue available in registered form only, with completed power of attorney to transfer attached. (One power of attorney for each certificate or an amalgamated power of attorney if acceptable to receiving broker or dealer).
  - (v) A certificate that has been altered or erased (other than by the transfer agent) whether or not such alteration or erasure has been guaranteed.
  - (vi) A certificate on which the assignment or substitute attorney has been altered or erased.
  - (vii) A registered stock unless it bears a certificate that provincial tax has been paid where applicable.
  - (viii) A certificate that has a stop transfer placed against it, the stop having been placed prior to delivery being made to the receiving dealer or broker.
- (7) Prior to notice of call
- (i) Sales or purchases of *securities* prior to notice of call in part but not in full and undelivered on date of such notice, must be completed on the basis of the original transaction. Date of notice is the date of the notice of call irrespective of the date of

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publication of such notice. Called *securities* do not constitute good delivery unless the transaction is so designated at its inception.

- (ii) Sales or purchases of *securities* prior to notice of call in full and undelivered at time of such notice must be completed on the terms of the original transaction.

### ~~4809~~4810. Stock dividend claims

- (1) No *Dealer Member* shall make a certificate claim for dividends against another *Dealer Member* if the amount of such claim would be \$5.00 or less.

## PART A.3 - BUY-IN TRANSACTIONS

### ~~4810~~4811. Buy-ins

- (1) Buy-ins must be made within the times, using the notices prescribed, and according to *Corporation requirements*. For the purposes of clauses ~~4810~~(~~14811~~(1)(i) through ~~4810~~(~~14811~~(1)(vii) a "regular delivery transaction" is deemed to have taken place once the *Dealer Members* involved have agreed on a price.
  - (i) For transactions between *Dealer Members* ~~in the same municipality~~, where the seller does not advise the buyer about the delivery by 11:30 a.m. on the ~~fourth~~second *business day* after a regular delivery transaction:
    - (a) The buyer may at his or her option buy-in the *securities*, where the buyer intends to buy-in the *securities*, the buyer must give written notice to the seller and to the *Corporation* on that day, or any subsequent *business day*, prior to 3:30 p.m., of his or her intention to buy-in for cash on the second *business day* after the original notice.
    - (b) The notice is deemed to automatically renew itself from *business day* to *business day* from 11:30 a.m. until closing until the transaction is finally completed.
    - (c) Where the buy-in is not executed on the second *business day* after the original notice, the seller has the privilege of advising the buyer each subsequent day before 11:30 a.m. of his or her ability, and intention, to make either whole or partial delivery on that day.
  - (ii) ~~For transactions between *Dealer Members* in different municipalities, where delivery has not been received by the buyer at the expiration of four *business days* after the transaction takes place, on or after the fourth *business day*:~~
    - (a) ~~The buyer may at his or her option buy in the securities, where the buyer intends to buy in the securities, the buyer must give written notice to the seller and to the *Corporation* on that day by 12 p.m. (the seller's time) his or her intention to buy in for cash on the third *business day* after the original notice.~~
    - (b) ~~Where the seller has not advised the buyer in writing by 5 p.m. (the buyer's time) on the day after the original notice that the securities covered by the buy-in have passed through his or her clearing and are in transit to the buyer, the buyer may proceed to execute the buy-in on the third *business day* after the original notice.~~

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- ~~(c) — The notice is deemed to automatically renew itself from *business day to business day* and the seller forfeits all rights to complete delivery other than the portion of the transaction that is in transit by the day following the receipt of the original notice. The buyer may at his or her option allow the seller to complete delivery of any remaining portion of the transaction.~~
- (iii) Any *Dealer Member* who is bought-in may demand evidence that a bona fide transaction has taken place involving the delivery of the bought-in *securities*. The *Dealer Member* who is bought-in has the right, to deliver such part of his or her commitment according to clause ~~4810(1)4811(1)(i) and 4810(1)(ii)~~ and must complete any such delivery to the nearest \$1,000 par value, or stock *trading unit*.
- (iviii) The *Corporation* has the authority to postpone the execution of a buy-in from day to day, and to combine buy-ins in the same *security*, and to decide any dispute arising from the execution of the buy-in, and its decision is final and binding.
- (ix) When a buy-in has been completed the buyer must submit to the seller a statement of account showing:
- (a) as credits, the amount originally contracted for as payment for the *securities*, and
  - (b) as debits, the amount paid on buy-in, the cost of the buyer's communication charges relative to the buy-in, and any bank or shipping charges incurred.
- Where there is a credit balance remaining, the buyer must pay this amount to the seller, and where there is a debit balance remaining, the seller must pay this amount to the buyer.

~~4811~~4812. – 4849. Reserved.

### PART B - ACCOUNT TRANSFERS AND BULK ACCOUNT MOVEMENTS

#### 4850. Introduction

- (1) Part B.1 of Rule 4800 describes the *Corporation's requirements* for transferring accounts between *Dealer Members* to ensure these transfers are completed promptly.
- (2) Part B.2 of Rule 4800 describes the *Corporation's exemption authority* with regards to bulk account movements.

#### 4851. Definitions

- (1) The following terms have the meaning set out below when used in Part B of Rule 4800:

"account transfer" <i>(transfert de compte)</i>	A client account transfer, at the request of or with the authority of the client, from one <i>Dealer Member</i> to another <i>Dealer Member</i> .
"delivering Dealer Member" <i>(courtier membre livreur)</i>	The <i>Dealer Member</i> from which the client account is being transferred or moved.
"partial account" <i>(compte partiel)</i>	Less than the total assets and balances in a client account held by a <i>delivering Dealer Member</i> .

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"receiving Dealer Member" <i>(courtier membre receveur)</i>	The <i>Dealer Member</i> to which the client account is being transferred or moved.
"recognized depository" <i>(dépotaire reconnu)</i>	A <i>Corporation</i> recognized clearing corporation or depository that is considered an <i>acceptable securities location</i> .

**PART B.1 - ACCOUNT TRANSFERS**

**4852. Transferring a full or partial account**

- (1) A *Dealer Member* transferring a full or *partial account* must comply with Part B.1 of Rule 4800 as applicable.

**4853. Transfer through a recognized depository**

- (1) If a Dealer Member is a CDS ATON participant, whenever-whenver possible, a-the *Dealer Member* transferring a client account must transfer that account through CDS's account transfer facility or another *recognized depository*.

**4854. Communications between Dealer Members**

- (1) Communications between *Dealer Members* that are CDS ATON participants must take place by electronic delivery through CDS's account transfer facility or another recognized depository, unless both *Dealer Members* agree otherwise.
- (2) A *Dealer Member* must pay its costs for delivering or receiving electronic communications done under Part B.1 of Rule 4800.
- (3) A *Dealer Member* must select, implement, and maintain appropriate security measures to protect its electronically delivered communications.
- (4) *Dealer Member* acknowledgement and indemnification:
  - (i) a *Dealer Member* acknowledges that an electronically delivered communication it sends will be relied on by the *Dealer Member* receiving it,
  - (ii) a *Dealer Member* must indemnify and save harmless other *Dealer Members* from any claims, losses, damages, liabilities or expenses the *other Dealer Members* suffer as a result of relying on its unauthorized, inaccurate, or incomplete electronic communication.

**4855. Receiving Dealer Member - responsibilities for documents**

- (1) If a *receiving Dealer Member* receives a request from a client to accept an account, it must obtain written authorization from the client to transfer the account.
- (2) After the client gives written authorization to the *receiving Dealer Member*, the *receiving Dealer Member* must:
  - (i) promptly send a request for transfer (using an account transfer authorization form approved by the *Corporation*) through CDS to the *delivering Dealer Member*, and
  - (ii) keep the original written account transfer authorization form on file.
- (3) The *receiving Dealer Member* must ensure that the forms or documents required to

**Commented [IIAC1]:** Proposed Rules applicable for account transfers through CDS ATON should expressly indicate they are only applicable for Dealer Members if they are CDS ATON participants, otherwise appear to require all Mutual Fund Dealers to become CDS ATON participants.

**Commented [IIAC2]:** Consistency between 4853(1) and 4854(1) in respect of CDS's account transfer facility and broader recognized depository.

**Commented [IIAC3]:** Consistency between 4853(1) and 4854(1) in respect of CDS's account transfer facility and broader recognized depository.

**Commented [IIAC4]:** Delete "written" in 4855(1) and (2) for clarity that other forms of authorization can comply.



**DEALER AND CONSOLIDATED RULES**

transfer accounts are completed and available on the same day as the request for transfer is delivered.

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### 4856. Delivering Dealer Member - response to request for transfer

- (1) When it receives the request for transfer, the *delivering Dealer Member* must either:
  - (i) deliver to the *receiving Dealer Member*, by the specified return date, the asset list for the client account being transferred, or
  - (ii) reject the request for transfer if the client account information is unknown to the *delivering Dealer Member* or is incomplete or incorrect.
- (2) The return date in clause 4856(1)(i) must be no later than two *clearing days* after the date that the *delivering Dealer Member* received the request for transfer.

### 4857. Asset transfer

- (1) Within one *clearing day* after the specified return date the *delivering Dealer Member* must commence, or cause *CDS's* account transfer facility to implement automatically, the transfer of the assets through *CDS*.
- (2) Any assets that cannot be transferred through a *recognized depository* must be settled:
  - (i) over-the-counter,
  - (ii) by other standard industry practices, or
  - (iii) by other appropriate means agreed between the *receiving Dealer Member* and the *delivering Dealer Member*.

The time limits in subsection 4857(1) apply.

### 4858. Transfer impediment

- (1) If there is an impediment to the requested transfer of an account asset, the *delivering Dealer Member* must promptly notify the *receiving Dealer Member*, identifying the asset and the reason for the inability to deliver.
- (2) The *receiving Dealer Member* must get client instructions or directions concerning the asset, and deliver them to the *delivering Dealer Member*.
- (3) The balance of the client's assets must be transferred according to Part B.1 of Rule 4800.

### 4859. Failure to settle

- (1) If the *delivering Dealer Member* fails to settle an asset transfer in a client account within 10 *clearing days* of receipt of the request for transfer, the *receiving Dealer Member* may complete the *account transfer*, at its option, by:
  - (i) buying-in the unsettled position in accordance with section ~~4810~~[4811](#),
  - (ii) lending the *security* to the *delivering Dealer Member* through a *recognized depository* and simultaneously transferring the same *security* into the client account, or
  - (iii) making other mutually agreed arrangements with the *delivering Dealer Member* so that the *account transfer* can be considered completed.
- (2) Any loan in clause 4859(1)(ii) must be marked to market and the assets will be considered delivered to the *receiving Dealer Member* to settle the *account transfer*.

### 4860. Non-certificated mutual funds

- (1) Non-certificated mutual fund *securities* are considered transferred when the *delivering Dealer Member* delivers to the *receiving Dealer Member*.

## DEALER AND CONSOLIDATED RULES

- (i) a completed mutual fund transfer form, and
- (ii) a completed and signed power of attorney, or
- (iii) by entry of transfer instructions in the electronic account transfer facility of FundSERV Inc.

### 4861. Interest or dividend receipt balances

- (1) Interest or dividend receivable balances must be settled promptly between a *delivering Dealer Member* and *receiving Dealer Member*. Despite any failure to settle these balances, a *Dealer Member* must comply with the *account transfer* procedures in Part B.1 of Rule 4800.

### 4862. Margin

- (1) A *Dealer Member* must not accept an *account transfer* from another *Dealer Member* if the account has a margin deficiency.
- (2) Subsection 4862(1) does not apply if at the *account transfer* time the *receiving Dealer Member* has sufficient funds or collateral to the client's credit available to cover the account's margin deficiency.

### 4863. Responsibility for margining account

- (1) The *receiving Dealer Member* assumes the responsibility for the margining of transferred account money balances and assets, under the *Corporation requirements*, on the date or dates the money balances or assets are received.

### 4864. Fees and charges

- (1) Before or at the time of *account transfer*, a *delivering Dealer Member* may deduct any fee or charge on the account in accordance with the *delivering Dealer Member's* current ~~published~~ fee and charge schedule.

### 4865. Corporation exemption

- (1) The *Corporation* may exempt a *Dealer Member* from the requirements of Part B.1 of Rule 4800 if the *Corporation* is satisfied that to do so would not prejudice the interests of the *Dealer Member*, its clients, or the public.
- (2) In granting an exemption under subsection 4865(1), the *Corporation* may impose any terms and conditions it considers necessary.

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### PART B.2 - BULK ACCOUNT MOVEMENTS

#### 4866. Bulk account movements exemption

- (1) In the event of a bulk account movement situation, where a *Dealer Member* is receiving in a significant number of client accounts, the *Corporation* may grant the *Dealer Member* an exemption from the applicable account opening requirement completion timelines.
- (2) The *Corporation* will grant such exemption if it is satisfied that to do so would not prejudice the interests of the *Dealer Member's* clients, the public or the *Dealer Member*.
- (3) In granting such an exemption under subsection 4866(1), the *Corporation* may impose any terms and conditions it considers necessary.

4867. – 4899. Reserved.

## SERIES 8000 | PROCEDURAL RULES – ENFORCEMENT

### RULE 8100 | ENFORCEMENT INVESTIGATIONS

#### 8101. Introduction

- (1) Rule 8100 sets out the powers of the *Corporation* to initiate and conduct enforcement investigations and the rights and obligations of *Regulated Persons* with respect to such investigations.

#### 8102. Conducting investigations

- (1) *Enforcement Staff* may investigate the conduct, business and affairs of a *Regulated Person* with respect to *Corporation requirements*, securities laws, applicable laws, or trading or advising in respect of *securities*, ~~futures contracts~~ or derivatives.

Commented [IIAC1]: Jurisdiction limited to securities

#### 8103. Investigation powers

- (1) In connection with an *investigation*, *Enforcement Staff* may, by written or electronic request, require a *Regulated Person*, ~~an employee, partner, director or officer of a~~ Regulated Person, an *approved investor*, or, where authorized by law, another *person* to:
- (i) provide a written report with respect to any matter,
  - (ii) produce for inspection any ~~records and documents~~ in the *person's* possession or control that *Enforcement Staff* believe may be relevant to the *investigation*, whether written, electronically stored or recorded,
  - (iii) provide copies of any such ~~records and documents~~ in the manner and form, including electronically and recorded, that *Enforcement Staff* requests, and
  - (iv) attend and answer questions under oath or otherwise, and any such attendance may be transcribed, recorded electronically, audio-recorded or video-recorded, as *Enforcement Staff* determines.
- (2) If *Enforcement Staff* requires production of original documents in a request made under subsection 8103(1), they must provide a receipt for any original documents received.
- (3) In connection with an *investigation*, *Enforcement Staff*:
- (i) may, with or without prior notice, enter the *business location* of any *Regulated Person* during business hours,
  - (ii) are *entitled* to free access to and to make and keep copies of all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and *records* of every description that *Enforcement Staff* believe may be relevant to the *investigation*, including by taking ana digital image of the ~~computer hard drives of~~ the *Regulated Person's records*, and
  - (iii) may remove the original of any ~~document or~~ *record* obtained under clause 8103(3)(ii), and where an original ~~document or~~ *record* is removed from the premises, *Enforcement Staff* must provide a receipt for the removed ~~document or~~ *record*.

Commented [IIAC2]: Regulated Person is defined in By-law No. 1

Commented [IIAC3]: Housekeeping. To focus on relevance.

Commented [IIAC4]: Housekeeping. To focus on relevance.

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### 8104. Obligations of Regulated Persons and other persons

- (1) A *person* who receives a request made under section 8103 must **comply with respond to** the request within the time specified in **it**.
- (2) If *Enforcement Staff* make a request under clause 8103(1)(i) or 8103(1)(iv) to a corporation, partnership or other organization, compliance with the request may be fulfilled by an employee of the corporation, partnership or organization who is acceptable to *Enforcement Staff*, taking into account the employee's position and knowledge.
- (3) A **Regulated Person** must cooperate with *Enforcement Staff* who are conducting an *investigation*, and a *Regulated Person* must require its employees, partners, directors and officers to cooperate with *Enforcement Staff* conducting an *investigation* and to comply with a request made under section 8103.
- (4) A person who is aware that *Enforcement Staff* are conducting an *investigation* must not conceal or destroy any *record*, document or thing that contains information that **may be is** relevant to the *investigation* or to any subsequent proceeding relating to the subject matter of the *investigation* or ask or encourage another *person* to do so.
- (5) A *Dealer Member* or **any person approved by, or under the jurisdiction of, the Corporation, Regulated Person** that is requested by a *Marketplace* to provide information in connection with an investigation of trading of a security on that *Marketplace* shall submit the requested records to the *Marketplace* making the request in such a manner and form, including electronically, as may reasonably be prescribed by such *Marketplace*.

**Commented [IIAC5]:** To account for reasonable requests for necessary additional time to comply.

**Commented [IIAC6]:** To accord with General By Law No. 1 and CIRO Rules

**Commented [IIAC7]:** To accord with General By Law No. 1 and CIRO Rules

### 8105. Right to counsel

- (1) A person who attends in response to a request under clause 8103(1)(iv) may be represented by counsel.

### 8106. Confidentiality of investigations

- (1) The *Corporation* may make an order prohibiting a *person* from communicating, for a specified period, some or all of the following information related to an *investigation* to another *person* except the *person's* counsel or another *individual* who represents the *person* or as required by law:
  - (i) the nature or content of the *investigation* or a request under subsection 8103(1),
  - (ii) the fact of an entry by *Enforcement Staff* under subsection 8103(3),
  - (iii) the fact that any report, *record*, other document or thing was requested, produced, *provided*, inspected, copied or taken,
  - (iv) the *name* of any *person* required to attend and answer questions, or
  - (v) any questions asked or any answers given on an attendance.
- (2) An order made under subsection 8106(1) shall not prohibit disclosure:
  - (i) of any fact that the *person* became aware of otherwise than as a result of the conduct of *the investigation*,
  - (ii) that is required to fulfill:
    - (a) any request made in connection with an *investigation*, but only to the extent necessary to respond to the request,

## DEALER AND CONSOLIDATED RULES

- (b) an obligation of the *person* under *Corporation requirements*,
  - (c) a fiduciary obligation of the *person* to a *Regulated Person*, or
  - (d) a contractual obligation of the *person* to comply with the policies of a *Regulated Person*,
- (iii) of information in connection with the imposition of restrictions on a *person* who is a subject of the *investigation*, but only to the extent necessary to implement the *restrictions*, or
- (iv) of the *existence* and nature of an *investigation* to:
- (a) a *Regulated Person* who is the *person's* employer,
  - (b) an employee of a *Regulated Person* with supervisory authority over or compliance responsibility for the *person*, or
  - (c) employees of the *Regulated Person* who are senior to the employees contemplated in sub-clause 8106(2)(iv)(b),
  - (d) legal counsel
- ~~but only to the extent necessary to supervise the person or allow officers of a Dealer Member or other Regulated Person to inform their board of directors of an investigation.~~
- (3) Notwithstanding an order made under subsection 8106(1), a *person* may disclose information, with the consent of a *hearing panel* on a motion under section 8413, if the *hearing panel* determines that disclosure of that information would not impede the conduct of the *investigation* and is otherwise justifiable, subject to any terms and conditions that the *hearing panel* considers appropriate.

**Commented [IIAC8]:** There should not be disclosure restrictions on dealers members, supervisors or legal counsel.

### 8107. Continuing jurisdiction

- (1) A *Regulated Person* remains subject to Rule 8100 for six years following the date on which they cease to be:
- (i) a *Dealer Member*, ~~or~~
  - (ii) a *Dealer Member* of the Investment Industry Regulatory Organization of Canada,
  - (iii) a ~~non-Dealer Member~~ user or subscriber of a Marketplace for which the Corporation is the regulation services provider of the Mutual Fund Dealers Association of Canada, ~~or~~
  - (iv) a ~~non-Dealer Member~~ user or subscriber of a Marketplace for which the Corporation is the regulation services provider.
  - (v) a non-Dealer Member user or subscriber of a Marketplace for which the Investment Industry Regulatory Organization of Canada was the regulation services provider, ~~or~~
  - (~~v~~vi) an employee, partner, *Director*, *officer* or any other representative designated in the *Corporation requirements* of a *Dealer Member*, ~~or~~
  - (~~v~~vii) an employee, partner, *Director*, *officer* or any other representative designated in the *Corporation requirements* of a *Dealer Member* of the Investment Industry Regulatory Organization of Canada, ~~or~~
  - (viii) an employee, partner, Director, officer or any other representative designated in the Corporation requirements of a Dealer Member of the Mutual Fund Dealers Association of Canada.

## DEALER AND CONSOLIDATED RULES

- (viii) an employee, partner, director, officer or any other representative of a non-*Dealer Member* user or subscriber of a *Marketplace* for which the *Corporation* is the regulation services provider, ~~or~~
- (viii) an employee, partner, director, officer or any other representative of a non-*Dealer Member* user or subscriber of a *Marketplace* for which the Investment Industry Regulatory Organization of Canada was the regulation services provider.

**8108. – 8199. Reserved.**



## RULE 8200 | ENFORCEMENT PROCEEDINGS

**8201. Introduction**

- (1) Rule 8200 sets out the authority of the *Corporation* and *hearing panels* to hold *hearings* for enforcement purposes.
- (2) Enforcement proceedings are intended to ensure compliance with and to enforce *Corporation requirements*, *and securities laws, applicable laws, and other requirements relating to trading or advising in respect of securities, futures contracts or derivatives.*
- (3) Rule 8200 is divided into the following parts:
  - Part A - General  
[sections 8203 through 8208]
  - Part B - Disciplinary proceedings  
[sections 8209 through 8217]

Commented [IIAC1]: To address jurisdiction

**8202. Definitions**

- (1) The following terms have the meaning set out below when used in Rule 8200:

"decision" ( <i>décision</i> )	A determination made by a <i>hearing panel</i> under Rule 8200 and includes a <i>sanction</i> and other order or ruling.
"disciplinary hearing" ( <i>audience disciplinaire</i> )	A <i>hearing</i> under Rule 8200, except for a <i>settlement hearing</i> .

**PART A - GENERAL****8203. Hearings**

- (1) A *hearing* must be conducted in accordance with Rule 8200 and the *Rules of Procedure*.
- (2) A *hearing panel* may hold any *hearing* and make any *decision* that is authorized under Rule 8200 and the *Rules of Procedure*.
- (3) A *hearing panel* may admit as evidence in a *hearing* any oral testimony and any document or other thing that is relevant, *whether or not given or proven under oath or affirmation or admissible as evidence in a court.*
- (4) A *hearing panel* may require testimony or other evidence to be given or proven under oath or affirmation.
- (5) A *hearing* under Rule 8200 must be open to the public, unless it is:
  - (i) a *settlement hearing*, in which case it will be opened to the public only after a *settlement agreement* has been accepted by the *hearing panel*,
  - (ii) a *hearing* to consider a temporary order under section 8211,
  - (iii) a *hearing* or part of a *hearing* where the *hearing panel* is of the opinion that the desirability of avoiding disclosure of intimate, personal or other matters outweighs

Commented [IIAC2]: Unsworn evidence given little to no weight and should be removed.

## DEALER AND CONSOLIDATED RULES

- the desirability of allowing the *hearing* or part of the *hearing* to be open to the public, or
- (iv) a *hearing* held in Québec where the *hearing panel*, on its own initiative or on the request of a *party*, orders the *hearing* or part of the *hearing* to be closed or prohibits the publication or release of documents in the interest of good morals or public order.
- (6) A *party* to an enforcement proceeding may be represented by counsel or, where permitted by law, an agent.
  - (7) A *hearing panel* must provide written reasons for a *decision* made by it, including a *decision* accepting or rejecting a *settlement agreement* under section 8215, ~~but not and~~ including an evidentiary or other procedural ruling, made in the course of a *hearing*, that is not dispositive of the issues raised in the *hearing*.

**Commented [IIAC3]:** Procedural rulings may be material and should include reasons.

### 8204. Application and effective date of decisions

- (1) A *decision* under Rule 8200 applies in all *Districts*, unless the *hearing panel* orders otherwise or unless the application of the *decision* is limited by law.
- (2) A *decision*, other than a ruling in the course of a *hearing*, is effective on the date the *decision* is dated by the ~~National Hearing Officer~~ Office, unless Rule 8200 or the *decision* provides otherwise, in which case the *decision* is effective on the date so provided.
- (3) A sanction, other than a fine or disgorgement, takes effect on the effective date of the *decision* imposing it, unless the *decision* provides otherwise.
- (4) A monetary sanction, including a fine, disgorgement and costs, imposed by a *decision* are payable when the *decision* is effective, unless the *decision* provides or the *parties* agree otherwise.

### 8205. Commencement of enforcement proceedings

- (1) The *Corporation* may commence proceedings and hold *hearings*, as provided in Rule 8200, to ensure compliance with and to enforce *Corporation requirements*, and securities laws, ~~applicable laws~~, and other requirements relating to trading or advising in respect of ~~securities, futures contracts~~ and *derivatives*.
- (2) A proceeding under Rule 8200 must be commenced by notice of application or notice of *hearing* in accordance with the *Rules of Procedure*.

**Commented [IIAC4]:** To maintain hearings within CIRO jurisdiction.

### 8206. Limitation

- (1) A *Regulated Person* remains subject to Rule 8200 for six years following the date on which they cease to be:
  - (i) a *Dealer Member*, ~~or~~
  - (ii) a Dealer Member of the Investment Industry Regulatory Organization of Canada,
  - (iii) a ~~non-Dealer Member user or subscriber of a Marketplace for which the Corporation is the regulation services provider~~ of the Mutual Fund Dealers Association of Canada, ~~or~~
  - (iv) a ~~non-Dealer Member user or subscriber of a Marketplace for which the Corporation is the regulation services provider~~ is the regulation services provider.

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- (v) a non-Dealer Member user or subscriber of a Marketplace for which the Investment Industry Regulatory Organization of Canada was the regulation services provider, ~~or~~
  - (~~v~~vi) an employee, partner, Director, officer or any other representative designated in the Corporation requirements of a Dealer Member, ~~or~~
  - (~~v~~vii) an employee, partner, Director, officer or any other representative designated in the Corporation requirements of a Dealer Member of the Investment Industry Regulatory Organization of Canada, ~~or~~
  - (~~v~~viii) an employee, partner, director, officer or any other representative of a non-Dealer Member user or subscriber of a Marketplace for which the Corporation is the regulation services provider, ~~or~~(~~viii~~ix) an employee, partner, director, officer or any other representative of a non-Dealer Member user or subscriber of a Marketplace for which the Investment Industry Regulatory Organization of Canada was the regulation services provider, or
  - (x) an employee, partner, Director, officer or any other representative designated in the Corporation requirements of a Dealer Member of the Mutual Fund Dealers Association of Canada.
- (2) The Corporation may commence a proceeding under Rule 8200 against a *Regulated Person* up to six years after the date of the occurrence of the last event on which the proceeding is based.
- (3) If a proceeding is commenced within the limitation period in subsection 8206(1) or 8206(2), the respondent remains subject to the requirements of Rule 8200 until the proceeding, including any review or appeal, is completed.

### 8207. Amounts owing to the Corporation

- (1) A person remains liable to the Corporation for all amounts owing to the Corporation.

### 8208. Powers of compulsion

- (1) A hearing panel may require a *Regulated Person*, an employee, partner, director or officer of a *Regulated Person* or the Corporation, including Corporation staff, and, if authorized by law, any other person to attend and give evidence or produce records and documents in connection with a hearing under Rule 8200.
- (2) A *Regulated Person* must, upon receipt of an order of a hearing panel or a notice from the ~~National Hearing Officer~~Office so requiring:
- (i) attend and give evidence, and
  - (ii) produce for inspection and provide copies of any relevant records or documents in the order within the *Regulated Person's* possession or control.
- (3) If a hearing panel requires an employee, partner, director or officer of a *Regulated Person*, who is not an *Approved Person*, to attend at a hearing, the *Regulated Person* must direct the individual to attend and give evidence.

Commented [IIAC5]: To define scope.

## PART B - DISCIPLINARY PROCEEDINGS

## 8209. Sanctions for Dealer Members

- (1) If, after a *hearing*, a *hearing panel* finds that a *Dealer Member* has contravened *Corporation requirements*, and securities laws, applicable laws or other requirement relating to trading or advising in respect of *securities*, ~~*futures contracts*~~, or *derivatives*, or has failed to carry out any agreement with the Corporation, the *hearing panel* may impose one or more of the following *sanctions*:
- (i) a reprimand,
  - (ii) disgorgement of any amount obtained, including any loss avoided, directly or indirectly, as a result of the contravention,
  - (iii) a fine not exceeding the greater of:
    - (a) ~~\$5,000,000~~ 10,000,000 for each contravention, and
    - (b) an amount equal to three times the profit made or loss avoided by the *Dealer Member*, directly or indirectly, as a result of the contravention,
  - (iv) suspension of *Membership* in the *Corporation* or of any right or privilege associated with *Membership*, including a direction to cease dealing with clients, for any period of time and on any terms and conditions,
  - (v) imposition of any terms or conditions on the *Dealer Member's* continued *Membership*, including on access to a *Marketplace*,
  - (vi) expulsion from *Membership* and termination of the rights and privileges of *Membership*, including access to a *Marketplace*,
  - (vii) permanent bar to membership in the *Corporation*,
  - (viii) appointment of a *Monitor*, and
  - (ix) any other *sanction* determined to be appropriate under the circumstances.
- (2) A *Dealer Member* may be *sanctioned* under subsection 8209(1) based on the conduct of an employee, partner, *Director* or *Officer*.
- (3) A sanction imposed under subsection 8209(1) relating to access to a *Marketplace* applies to all *Marketplaces*.
- (4) In exercising its discretion to appoint a *Monitor*, a *hearing panel* may consider:
- (i) the harm or potential harm to the investing public,
  - (ii) the *Dealer Member's* financial solvency,
  - (iii) the adequacy of the *Dealer Member's* internal controls and operating procedures,
  - (iv) the *Dealer Member's* failure to respond to the *Corporation's* requests to address deficiencies in its *internal controls* and *operating procedures*,
  - (v) the *Dealer Member's* failure to comply with any agreement with the *Corporation*,
  - (vi) the *Dealer Member's* ability to maintain regulatory capital requirements,
  - (vii) any previous suspension of the *Dealer Member* for failing to meet regulatory capital requirements,

Commented [IIAC6]: No evidence has been provided to support a sound policy basis for increase.

- (viii) the Dealer Member's and its key personnel's regulatory history,
- (ix) the costs to the Dealer Member associated with the appointment of the Monitor, and
- (x) any other relevant factors.

**8210. Sanctions for Regulated Persons other than Dealer Members**

- (1) If after a *hearing*, a *hearing panel* finds that an *Approved Person*, a non-Dealer Member user or subscriber of a *Marketplace* for which the *Corporation* is the regulation services provider or an employee, partner, director or officer of such a user or subscriber has contravened *Corporation requirements*, and securities laws, applicable laws or other requirement relating to trading or advising in respect of *securities, futures contracts, or derivatives*, or has failed to carry out any agreement with the Corporation, the *hearing panel* may impose on such *person* one or more of the following *sanctions*:
  - (i) a reprimand,
  - (ii) disgorgement of any amount obtained, including any loss avoided, directly or indirectly, as a result of the contravention,
  - (iii) a fine not exceeding the greater of:
    - (a) \$~~5,000,000~~ 10,000,000 for each contravention, and
    - (b) an amount equal to three times the profit made or loss avoided by the *person*, directly or indirectly, as a result of the contravention,
  - (iv) suspension of the *person's* approval or any right or privilege associated with such approval, including access to a *Marketplace*, or suspension of the person's authority to conduct securities and derivatives related business, for any period of time and on any terms and conditions,
  - (v) imposition of any terms or conditions on the *person's* continued approval or continued access to a *Marketplace*,
  - (vi) prohibition of approval in any capacity or prohibition of the person's authority to conduct securities and derivatives related business, for any period of time, including access to a *Marketplace*,
  - (vii) revocation of approval or revocation of the person's authority to conduct securities and derivatives related business,
  - (viii) a permanent bar to approval or to conduct securities and derivatives related business in any capacity or to access to a *Marketplace*,
  - (ix) a permanent bar to employment in any capacity by a *Regulated Person*, and
  - (x) any other *sanction* determined to be appropriate under the circumstances.
- (2) A sanction imposed under subsection 8210(1) relating to access to a *Marketplace* applies to all *Marketplaces*.
- (3) A director or officer of a *Regulated Person* may be *sanctioned* under subsection 8210(1) based on the conduct of the *Regulated Person* with which he or she is associated.
- (4) A *Regulated Person* must not employ, hire, retain, or otherwise engage, in any capacity, a *person* who is *sanctioned* under clause 8210(1)(ix).

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- (5) A Regulated Person must not hire, retain, or otherwise engage, in any capacity, a person who is sanctioned under clauses 8210(1)(iv), 8210(1)(vi) or 8210(1)(vii) during the period of the sanction.
- (6) A Regulated Person must not pay or credit any remuneration to any person who is sanctioned under clause 8210(1)(ix).
- (7) A Regulated Person must not pay or credit to any person who is sanctioned under clauses 8210(1)(iv), 8210(1)(vi) or 8210(1)(vii) any remuneration that the person might accrue during the period of the sanction.
- (8) Despite subsections 8210(6) and 8210(7), a Regulated Person may pay or credit to a person who is sanctioned under clauses 8210(1)(iv), 8210(1)(vi), 8210(1)(vii) and 8210(1)(ix) remuneration that is:
  - (i) consistent with the scope of activities permitted under the sanction, or
  - (ii) pursuant to an insurance or medical plan, an indemnity agreement relating to legal fees or as required by arbitration awards or court judgment; or
  - (iii) previously earned prior to the sanction but not yet paid.

**Commented [IIAC7]:** See responses to CIRO questions.

### 8211. Temporary orders

- (1) On application by *Enforcement Staff*, if a *hearing panel* is satisfied that the length of time required to conclude a *hearing* could be prejudicial to the public interest, the *hearing panel* may, without notice to the *respondent*, make a temporary order that suspends or restricts a *Regulated Person's* rights and privileges and may impose terms and conditions that the *hearing panel* considers appropriate.
- (2) A temporary order that is made without notice under subsection 8211(1) expires 15 days after the date on which it is made, unless:
  - (i) a *hearing* is commenced within that period to confirm or set aside the temporary order,
  - (ii) the *Regulated Person* consents to an extension of the temporary order, or
  - (iii) a securities *regulatory authority* orders otherwise.
- (3) The *Corporation* must immediately give written notice of a temporary order under subsection 8211(1) to every *person* directly affected by it.

### 8212. Protective orders

- (1) On application by *Enforcement Staff*, a *hearing panel* may hold a *hearing* to consider a request for an order under subsection 8212(4), following notice to the *respondent* in accordance with subsection 8426(1).
- (2) After a *hearing* under this section with respect to a *Dealer Member*, a *hearing panel* may make one or more of the orders set out in subsection 8212(4), if it finds that:
  - (i) the *Dealer Member* or a parent corporation or control person of the *Dealer Member* has made a general assignment for the benefit of creditors or an authorized assignment or proposal to its creditors, has been declared bankrupt, or is the subject of a winding-up order, an application under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended, or similar legislation or an application for its liquidation or dissolution,

**Commented [IIAC8]:** Remuneration restriction should allow for payment of previously earned but unpaid compensation, which will also assist with employment law concerns.

## DEALER AND CONSOLIDATED RULES

- (ii) a receiver or receiver-manager has been appointed in respect of all or part of the Dealer Member's undertaking or property or all or part of the undertaking or property of a parent corporation or control person of the Dealer Member,
  - (iii) the Dealer Member has tendered its resignation, is not carrying on business as an investment dealer or is in the process of winding up or terminating its business as an investment dealer,
  - (iv) the Dealer Member's registration as a dealer under securities laws has lapsed or been suspended or terminated,
  - (v) a securities regulatory authority, Marketplace, SRO or clearing agency has suspended the Dealer Member's membership or privileges,
  - (vi) the Dealer Member has been convicted of contravening a law relating, where the conviction relates to theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation or unauthorized trading,
  - (vii) the Dealer Member has been charged with contravening a law, where the conviction relates to theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation or unauthorized trading and the hearing panel determines that such charge likely brings the capital markets into disrepute,
  - (viii) the Dealer Member's continued operation would create a risk of imminent harm to its clients, investors, other Regulated Persons or the Corporation because the Dealer Member:
    - (a) is in financial or operating difficulty, or
    - (b) has failed to cooperate in respect of an investigation or examination, or
  - (viiiX) the Dealer Member has not complied with:
    - (a) terms or conditions of a ~~sanction~~, or
    - (b) a prohibition under Part B of Rule 4100 (early warning level 2) to which it is subject, or
    - (c) terms or conditions on membership imposed by the Corporation under section 9208.
- (3) After a hearing under this section with respect to a Regulated Person, other than a Dealer Member, a hearing panel may make one or more of the orders set out in subsection 8212(4), if it finds that:
- (i) the person's registration under securities laws has lapsed or been suspended or terminated,
  - (ii) a securities regulatory authority has made an order prohibiting the person from trading in securities, acting as a director or officer of a market participant or as a promoter, or engaging in investor relations activities, or has denied the person the use of an exemption under securities laws,

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- (iii) a *Marketplace*, *SRO* or clearing agency has suspended the *person* or the *person's* privileges,
  - (iv) the *person* has been convicted of contravening a law ~~relating, where the conviction~~ relates to theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation or unauthorized trading,
  - (v) the *person* has been charged with contravening a law, where the conviction relates to theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation or unauthorized trading and the *hearing panel* determines that such charge likely brings the capital markets into disrepute.
  - (vi) the *person's* continued approval would create a risk of imminent harm to clients, investors, other *Regulated Persons* or the *Corporation* because the *person* has failed to cooperate in respect of an *investigation*, ~~or~~
  - (~~vii~~) the *person* has not complied with terms or conditions of a *sanction* to which the *person* is subject, or
  - (viii) the *Corporation* receives information regarding the incapacity of the *person*, by reason of mental or physical illness or other infirmity.
- (4) After a *hearing* under this section, a *hearing panel* may make an order:
- (i) suspending membership, approval or access to a *Marketplace* on any terms and conditions,
  - (ii) with terms and conditions, requiring a *Dealer Member* that is suspended under this section to take steps to facilitate the orderly transfer of its client accounts to another *Dealer Member*,
  - (iii) imposing terms and conditions on continued membership, approval or access to a *Marketplace*,
  - (iv) directing immediate cessation of any or all dealing with clients or any other *persons*,
  - (v) expelling a *Dealer Member* from the *Corporation* and terminating the rights and privileges of *Membership*,
  - (vi) revoking approval or access to a *Marketplace*, or
  - (vii) appointing a *Monitor* over a *Dealer Member's* business and affairs.
- (5) A *person* may request, in writing, a review by a *hearing panel* of a *decision* made after a hearing under this section, within 30 days after the effective date of the *decision*.
- (6) A *hearing* shall be held as soon as practicable, and no later than 21 days, after a review is requested under subsection 8212(5), unless the *person* requesting the review and *Enforcement Staff* agree otherwise.
- (7) A member of a *hearing panel* whose *decision* is the subject of a review under this section may not be a member of the *hearing panel* on the review.



- (8) A *hearing panel* may stay an order made under subsection 8212(4), subject to any terms and conditions it considers appropriate.
- (9) On a review under this section, a *hearing panel* may:
  - (i) affirm the order,
  - (ii) quash the decision,
  - (iii) vary the decision or order, or
  - (iv) make any order authorized by subsection 8212(4).

**8213. Monitor**

- (1) If a *hearing panel* appoints a *Monitor* under section 8209 or section 8212 with respect to the business and affairs of a *Dealer Member*, the *Monitor* has authority to supervise and monitor the *Dealer Member's* business and affairs in accordance with the terms and conditions imposed by the *hearing panel*.
- (2) A *hearing panel* may impose any terms and conditions, and any time periods, on a *Monitor's* authority with respect to a *Dealer Member's* business and affairs that the *hearing panel* considers appropriate, including authority to:
  - (i) enter the *Dealer Member's* premises and conduct day-to-day monitoring of the *Dealer Member's* business activities,
  - (ii) monitor and review accounts receivable, accounts payable, client accounts, margin, client free credits, banking arrangements and transactions, trading conducted by the *Dealer Member* for clients and for its own account, payment of debts, creation of new debt and the *Dealer Member's* books and records,
  - (iii) make copies of any records ~~or other documents~~ and provide copies of such records ~~and documents~~ to the *Corporation* or any other regulatory or self-regulatory authority,
  - (iv) report the *Monitor's* findings or observations, on an ongoing or other basis, to the *Corporation* or any other regulatory or self-regulatory authority,
  - (v) monitor the *Dealer Member's* compliance with any terms or conditions imposed on the *Dealer Member* by the *Corporation* or any other regulatory or self-regulatory authority or by the *hearing panel*, including compliance with any early warning terms and conditions,
  - (vi) verify and assist with the preparation of any regulatory filings, including the calculation of *risk adjusted capital*,
  - (vii) conduct or have conducted an appraisal of the *Dealer Member's* net worth or a valuation of any of the *Dealer Member's* assets,
  - (viii) assist the *Dealer Member's employees* in facilitating the orderly transfer of the *Dealer Member's* client accounts, and
  - (ix) pre-authorize cheques issued or payments made by or on behalf of the *Dealer Member* or distribution of any of the *Dealer Member's* assets.

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- (3) A *Dealer Member* must cooperate with the *Monitor*, require its *employees*, partners, *Directors* and *officers* to cooperate with the *Monitor* and take all reasonable steps to have its *affiliates* and service providers cooperate with the *Monitor* with respect to the exercise by the *Monitor* of its authority under this section.
- (4) The *Dealer Member* must pay all expenses relating to a *Monitor* appointed to monitor the *Dealer Member's* business and affairs, including the *Monitor's* fees.
- (5) *Corporation* staff, a *Monitor*, or a *Dealer Member* subject to a *Monitor* may at any time apply to a *hearing panel* for directions concerning the *Monitor's* authority or the conduct of the *Monitor's* activities.
- (6) On an application under subsection 8213(5), a *hearing panel* may make any order it considers appropriate.

### 8214. Costs

- (1) After a *hearing* under Rule 8200, other than a *hearing* under section 8211, a *hearing panel* may order a *person* who is the subject of a *sanction* to pay any costs incurred by or on behalf of the *Corporation* in connection with the *hearing* and any *investigation* related to the *hearing*.
- (2) Costs ordered under subsection 8214(1) may include:
  - (i) costs for time *spent by the Corporation Staff*;
  - (ii) fees paid *by the Corporation* for *legal* or accounting services or for services rendered by an expert witness,
  - (iii) witness fees and *expenses*,
  - (iv) costs of recording and *transcribing* evidence and preparation of transcripts, and
  - (v) disbursements, *including* travel costs.

(3) After a *hearing* under Rule 8200, other than a *hearing* under section 8211, a *hearing panel* has discretion to address costs payable by any party to the proceeding with regard to the public interest.

**Commented [IIAC9]:** To address the role costs may play to serve the public interest in any given proceeding, where facts and circumstances may vary.

### 8215. Settlements and settlement hearings

- (1) *Enforcement Staff* may agree in a *settlement agreement* to settle a proceeding or proposed proceeding against a *Regulated Person* at any time prior to the conclusion of a *disciplinary hearing*.
- (2) A *settlement agreement* must contain:
  - (i) a statement of the *contraventions* agreed to by the *respondent*, with references to the relevant *Corporation requirements* and *applicable laws*,
  - (ii) the agreed *facts*,
  - (iii) the *sanctions and costs* to be imposed on the *respondent*,
  - (iv) a waiver by the *respondent* of all rights to any further *hearing*, appeal and review,
  - (v) a provision that *Enforcement Staff* will not initiate any further action against the *respondent* in relation to the matter addressed in the *settlement agreement*,

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- (vi) a provision that *the settlement agreement* is conditional on acceptance by a *hearing panel*,

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- (vii) a provision that the *settlement agreement* and its terms are confidential, unless and until it has *been* accepted by a *hearing panel*,
  - (viii) a provision that the *parties* will not make any public statement that is inconsistent with the *settlement agreement*, and
  - (ix) any other *provisions* not inconsistent with clauses 8215(2)(i) through 8215(2)(viii) that the *parties* agree to include in the *settlement agreement*.
- (3) Discussions relating to settlement are on a without prejudice basis to *Enforcement Staff* and any other *person* participating in the discussions and must not be used as evidence or referred to in any proceeding.
- ~~(4)~~ ~~A settlement agreement may impose any obligations on a respondent to which the respondent agrees, whether or not they could be imposed by a hearing panel under Rule 8200.~~
- ~~(5)~~(4) After a *settlement hearing*, a *hearing panel* may accept or reject a *settlement agreement*.
- ~~(6)~~(5) A *settlement agreement* becomes effective and binding on the *parties* to it upon acceptance by a *hearing panel*.
- ~~(7)~~(6) If a *settlement agreement* is accepted by a *hearing panel*, any *sanction* imposed under it is deemed to have been imposed under Rule 8200.
- ~~(8)~~(7) If a *settlement agreement* is rejected by a *hearing panel*,
- (i) *either*:
    - (a) the *parties* may agree to enter another *settlement agreement*, or
    - (b) *Enforcement Staff* may proceed to a *disciplinary hearing* based on the same or related allegations ~~and charges~~,
- and
- (ii) the *hearing panel's* reasons for rejecting the *settlement agreement* must be made available to a *hearing panel* considering a subsequent *settlement agreement* based on the same or related allegations and charges,
- but must not be made public or referred to in a subsequent *disciplinary hearing*.
- ~~(9)~~(8) A member of a *hearing panel* that rejects a *settlement agreement* may not be a member of a *hearing panel* that considers a subsequent *settlement agreement* or conducts a *disciplinary hearing* based on the same or related allegations.

**8216. Failure to pay fine or costs**

- (1) If a *Regulated Person* does not pay a fine, costs or other amount ordered to be paid by a *hearing panel* or required to be paid under a *settlement agreement*, the *Corporation* may, seven *days* after sending written notice, summarily suspend the *Membership* of the *Regulated Person* and all rights and privileges of the *Regulated Person* relating to approval or access to a *Marketplace*, until the fine, costs or other amount has been paid.

**8217. Review by a securities regulatory authority**

- (1) A *party* to a proceeding under Rule 8200 may apply to the *securities regulatory authority* in the relevant *District* for review of a final *decision* in the proceeding.

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Commented [IIAC10]: A settlement agreement should reflect a compromise for less than what may be awarded at a hearing. Though enforcement cannot have greater powers than a hearing panel to impose obligations on a respondent, we encourage Enforcement Staff to find reasonable alternatives to resolution.

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- (2) A person who is entitled to request a review of a *decision* under section 8212 or is the subject of a *decision* making a temporary order under section 8211 may not apply to a *securities regulatory authority* for review of the *decision*, unless the *person* has requested a review or other *hearing* by a *hearing panel* and the *hearing panel* has made a final *decision*.
- (3) For purposes of subsection 8217(1), *Enforcement Staff* is directly affected by a *decision* in a proceeding in which *Enforcement Staff* is a *party*.

**8218. – 8299. Reserved.**

## RULE 8300 | HEARING COMMITTEES

**8301. Introduction**

- (1) Rule 8300 requires a *hearing committee* in each *District* from which *hearing panels* must be selected for enforcement and other proceedings and sets out the process for appointing and removing members of *hearing committees*.

**8302. Definitions**

- (1) The following terms have the meaning set out below when used in Rule 8300:

<p>"Appointments Committee" (<i>comité des nominations</i>)</p>	<p>A committee composed of:</p> <p>(i) four members of the Governance Committee established by the <i>Board</i>, including its Chair as set out in General By-law No.1, section 12.2,</p> <p>(ii) two Non-Independent Directors of the <i>Board</i> as set out in General By-law No.1, section 1.1, and</p> <p>(iii) the President of the <i>Corporation</i> as set out in General By-law No. 1, section 1.1.</p>
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**8303. District Hearing Committees**

- (1) A *hearing committee* must be appointed for each *District*.
- (2) [An industry member](#) of a *hearing committee* of a *District* must reside in the *District*.
- (3) Two thirds of the members of a *hearing committee*, to the extent practicable, must be *industry members*.
- (4) One third of the members of a *hearing committee*, to the extent practicable, must be *public members*.
- (5) The chair of a *hearing committee* must be a *public member*.

**8304. Nominations**

- (1) The *Corporation* must nominate *individuals* to be *public members* and *industry members* of the *hearing committee* in each *District*.

**8305. Appointment**

- (1) The *Appointments Committee* must appoint to the *hearing committee* of each *District* a number of suitable and qualified *individuals* sufficient to conduct *hearings* in the *District*.
- (2) In considering the suitability and qualifications of an *individual* who is nominated for membership on a *hearing committee*, the *Appointments Committee* must take into account the *individual's*:
- (i) general knowledge of business practices and *securities laws*,
  - (ii) experience,
  - (iii) regulatory background,
  - (iv) availability for *hearings*,
  - (v) reputation in the securities industry,

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- (vi) ability to conduct *hearings* in French or English, and
  - (vii) eligibility to serve in a particular *District*.
- (3) An individual who:
- (i) is currently or has been within the previous eighteen months an employee of a *Member, a Regulated Person, or an affiliate of a Member or Regulated Person,*
  - (ii) represents any parties to enforcement or other proceedings under *Corporation requirements* or any *person* in connection with *Corporation requirements,* or
  - (iii) would otherwise raise a reasonable apprehension of bias with respect to matters that may come before a *hearing panel,*
- is not eligible for appointment or membership as a *public member of a hearing committee.*
- (4) The *Appointments Committee* must appoint a chair of each *hearing committee.*

**8306. Term of appointment**

- (1) Appointment of an *individual* to a *hearing committee* is for a three-year term.
- (2) A hearing *committee* member may be reappointed to successive terms.
- (3) If a *hearing committee* member's term expires without reappointment during a *hearing* in which the member is serving on the *hearing panel,* the member's term is extended automatically until the completion of the *hearing* or if the *hearing* is a *hearing* on the merits, the proceeding.

**8307. Removal**

- (1) The *Appointments Committee* may remove a *hearing committee* member who:
  - (i) for industry members, ceases to reside in the *hearing committee's District,*
  - (ii) is precluded from acting as a *hearing committee* member by a law applicable in the *District,*

- ~~(iii) in the *Appointments Committee's* opinion, will raise a reasonable apprehension of bias with respect to matters that may come before a *hearing panel,* or~~
- ~~(iv) for any other reason, ceases to be suitable or qualified to be a *hearing committee* member based on the factors listed in subsection 8305(2).~~

- (2) An individual who is removed by the *Appointments Committee* must not continue to serve on a *hearing panel* in any proceeding.

**8308. – 8399. Reserved.**

**Commented [IIAC1]:** Gives the appearance of interference and undue influence by the Appointments Committee over the Hearing Panel and compromises the independence of the Hearing Panel

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## RULE 8400 | RULES OF PRACTICE AND PROCEDURE

**8401. Introduction**

- (1) The *Rules of Procedure* set out the rules that govern the conduct of the Corporation's enforcement proceedings ~~and~~ regulatory review *hearings* ~~and prehearing conferences~~ to secure fair and efficient *investigations*, proceedings and just determinations.
- (2) Rule 8400 is divided into the following parts:
- Part A - General  
[sections 8403 through 8413]
- Part B - Enforcement proceedings  
[sections 8414 through 8429]
- Part C - Regulatory review hearings  
[section 8430]
- Part D - Securities regulatory authority review  
[section 8431]

**8402. Definitions**

- (1) The following terms have the meaning set out when used in Rule 8400:

"application" ( <i>demande</i> )	An application that commences a proceeding under Rule 8200 and includes an application for a temporary order or a protective order.
"commencing notice" ( <i>avis introductif</i> )	A notice of <i>hearing</i> , notice of <i>application</i> , notice of motion, notice of <i>prehearing conference</i> and notice of request for review.
"decision" ( <i>décision</i> )	A determination made by a <i>hearing panel</i> .
"document" ( <i>document</i> )	Includes a record, <del>sound</del> audio and video recording, <del>videotape</del> , film, photograph, chart, graph, map, plan, survey, book of account, <del>memorandum, file, list, voucher</del> and <del>any</del> information recorded or stored <del>by means of any electronic</del> electronically or <del>by other device</del> means.
"electronic hearing"	<del>A hearing held by conference telephone or another form of electronic technology that allows persons to hear one another.</del>
"file" ( <i>produire</i> )	A file with the <del>National Hearing Officer</del> Office in accordance with section 8406.
"oral hearing" ( <i>audience par comparution</i> )	A <i>hearing</i> at which the <i>parties</i> or their counsel or agents attend before a <i>hearing panel</i> <del>in person</del> .
"prehearing conference" ( <i>conférence préparatoire à l'audience</i> )	A prehearing conference held pursuant to section 8416.

**Commented [IIAC1]:** A greater use of pre-hearing conferences with (a) panel member(s) can be made to narrow issues, save costs and resources and encourage early resolution.

**Commented [IIAC2]:** There should be a rule revision whereby at any time prior to the commencement of any proceeding under Rule 8200 a party may request a confidential attendance before a panel member to consider:

- a) The settlement of any or all of the issues;
- b) The simplification of the issues;
- c) Facts that may be agreed upon;
- d) Any other matter that may further a just, expeditious and cost-effective disposition of an investigation.

A panel member should otherwise be available at the request of either party at any stage of an investigation or negotiation to preside over this confidential attendance.



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"regulatory decision" ( <i>décision en matière de réglementation</i> )	A decision made under sections 9204, 9206 or 9207 or Part B of Rule 4100.
"requesting party" ( <i>partie requérante</i> )	A <i>person</i> who requests a review <i>hearing</i> under sections 8427 or 8430.
"responding party" ( <i>partie intimée</i> )	A <i>person</i> responding to a motion or to a request for a review <i>hearing</i> under sections 8427 or 8430.
"written hearing" ( <i>audience par production de pièces</i> )	A <i>hearing</i> held by means of an exchange of documents, whether in hard copy or by electronic means.

**PART A - GENERAL**

**8403. General principles**

- (1) The *Rules of Procedure* shall be interpreted and applied to secure a fair *hearing* and just determination of a proceeding on its merits and the most expeditious and least expensive conduct of the proceeding.
- (2) No proceeding, ~~document or~~ *hearing, decision or step* in a proceeding is invalid by reason of a defect or other irregularity in form.
- (3) Subject to a requirement in the *Rules of Procedure*, a *hearing panel* has authority to control the process of a proceeding before it and may exercise any of its powers on its own initiative or at the request of a *party*, including:
  - (i) issuing procedural directions or orders with respect to the application of the *Rules of Procedure* in respect of any proceeding,
  - (ii) imposing *terms* or conditions in a direction or order,
  - (iii) admitting or requiring presentation of evidence on oath, affirmation or otherwise,
  - (iv) waiving or varying any *Rule of Procedure* in respect of a proceeding,
  - (v) requiring *parties* to *file documents* electronically, and
  - (vi) at the request of a *party*, making an interim *decision* or order, including a *decision* or order that is subject to terms and conditions.
- (4) At the request of a *party*, a *hearing panel* may provide for any procedural matter that is not provided for in the *Corporation requirements* or the *Rules of Procedure* by analogy to the *Rules of Civil Procedure in the jurisdiction* or by reference to the rules of practice or procedure of another SRO or professional association or to the rules applicable to a *Canadian securities regulatory authority*.

Commented [IIAC3]: To define scope for procedural analogy.

**8404. Time**

- (1) When computing time under the *Rules of Procedure* or an order of a hearing panel:
  - (i) the number of days between two events are counted by excluding the day on which the first event occurs and including the day on which the second event occurs,
  - (ii) if a *period* of less than seven days is prescribed, only *business days* are to be counted,

- (iii) if the time for doing an act expires on a day that is not a *business day*, the act may be done on the next business day.
  - (iv) a document that is served or filed after 5 p.m. in the time zone of the recipient is deemed to have been served or filed on the next *business day*, and
  - (~~iv~~) a document that is served or filed ~~after 4 p.m. in the time zone of the recipient~~ on a day that is not a business day is deemed to have been served or filed on the next *business day*.
- (2) A time period prescribed by the *Rules of Procedure* may be extended or abridged:
- (i) before *its* expiration, on consent of the *parties*, or
  - (ii) before or after its expiration, by a *hearing panel* on any terms and conditions the *hearing panel* considers appropriate.

#### 8405. Appearance and representation

- (1) A *party* in a proceeding may be self-represented or may be represented by counsel or an agent.
- (2) A self-represented *party* must *file* and keep current during a proceeding the *party's* address, telephone ~~number, facsimile~~ number and email address, as applicable.
- (3) A person who appears as counsel or agent for a *party* in a proceeding must *file* and keep current during the proceeding the *person's* address, telephone ~~number, facsimile~~ number and email address, as applicable, and the name and address of the *party* represented.
- (4) A *party* who is represented by counsel or an agent may:
  - (i) change the counsel or agent by serving on the counsel or agent and on every other *party*, and *filing*, a notice of change giving the name, address, telephone number, facsimile number and email address of the new counsel or agent, as applicable, or
  - (ii) elect to act in person by serving on the counsel or agent and on every other *party*, and *filing*, a notice of intention to act in person, giving the *party's* address, telephone number, facsimile number and email address, as applicable.
- (5) A *party* who appoints a new counsel or agent in the course of a proceeding must comply with clause 8405(4)(i).
- (6) Counsel or an agent for a *party* may withdraw as counsel or agent by serving on the *party* and other *parties* and *filing* a written notice of withdrawal.
- (7) If counsel or an agent for a *party* seeks to withdraw as counsel or agent less than 30 days prior to the date on which a matter is scheduled to be heard by a *hearing panel*, the counsel or agent may withdraw only with leave of the *hearing panel* obtained on a motion.
- (8) Where a *party* is represented by counsel or an agent:
  - (i) *documents* served on the *party* must be served on the *party's* counsel or agent, unless the *Rules of Procedure* require otherwise,
  - (ii) *communications* with the *party* must be with the *party's* counsel or agent, and
  - (iii) the *party* must address a *hearing panel* through the *party's* counsel or agent.

**8406. Service and filing**

- (1) A document required to be served under the *Rules of Procedure* must be served on all *parties* to the proceeding.
- (2) A notice of *hearing* under section 8414, a notice of *application* under section 8425 or 8426, a notice of request for review from a *decision* made under Rule 9200, and a *decision* of a *hearing panel* on the merits of such a proceeding that is served on an *Approved Person* must, for information purposes, be sent concurrently to the *Dealer Member* that employs the *Approved Person*.
- (3) Subject to subsection 8406(4), a *document* required to be served must be served by one of the following methods:
  - (i) personal *delivery* to the *party*,
  - (ii) delivery to *the party's* counsel or agent,
  - (iii) delivery to an adult person at the *party's* place of residence, employment or business or the *place* of business of the *party's* counsel or agent,
  - (iv) if the *party* is a corporation, delivery to an officer, director or agent of the corporation or a *person* at any place of business of the corporation who appears to be in control or management of the place of business,
  - (v) if the *party* is a partnership, delivery to a partner or a *person* at any place of business of the *partnership* who appears to be in control or management of the place of business,
  - (vi) mail or *courier* to the last known address of the *party* or the *party's* counsel or agent,
  - (vii) electronic transmission to ~~the facsimile number or e-mail address of~~ the *party* or the *party's* counsel or agent, or
  - (viii) by any *other* means with the *party's* consent or authorized by a *hearing panel*.
- (4) A notice of *hearing* and a notice of *application* must be served by:
  - (i) personal *delivery* to the *party*,
  - (ii) registered *mail* to the *party's* last known address,
  - (iii) registered and ordinary *mail* or *courier* with confirmation of receipt to the *party's* last known address,
  - (iv) delivery to *the party's* counsel or agent, with the consent of counsel or the agent,
  - ~~(v)~~ electronic transmission to the *party* or the *party's* counsel or agent, with the consent of the counsel or agent,
  - (vi) any other *method* set out in subsection 8406(3) to which the *party* consents, or
  - ~~(vii)~~ any other *means* authorized by a *hearing panel*.
- (5) Service of a *document* is deemed to be effective, when delivered no later than 4~~5~~ p.m. in the time zone of the recipient:
  - (i) by delivery, on the day of delivery,
  - (ii) by mail, on the fifth day after mailing,
  - (iii) electronically, on the day of transmission,

**Commented [IIAC4]:** Email delivery is now the norm and need not require consent.

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- (iv) by courier, on the earlier of the day noted on the delivery receipt or the second day after the *day* on which it was given to the courier, or
  - (v) by any other means authorized by a *hearing panel*, on the day the *document* is served by the *means* so authorized.
- (6) Subsection 8406(5) does not apply where a party, counsel or agent, acting in good faith, does not receive the document because of an absence, accident, illness or other cause beyond the person's control.
- (7) A document may not be served or deemed to be served on a day that is not a business day, except with the consent of the party being served or as ordered by the hearing panel.
- (8) Service of a *document* may be proved by an affidavit of the *person* who served it.
- (79) A *document* required to be *filed* under the *Rules of Procedure* must be *filed* by delivering or sending by :
- (i) mail, ~~or~~ courier ~~or facsimile transmission four copies of~~ the *document*, with proof of service, to the ~~National Hearing Officer~~ Office at the *Corporation's* offices in the *District* in which the proceeding is conducted, ~~or~~
  - (ii) electronic transmission to the Hearing Office.
- (810) The ~~National Hearing Officer~~ Office may:
- (i) ~~require more or permit fewer than four copies of a document to be filed, and~~
  - (ii) ~~permit or require filing of a document by e-mail, provided that the party also files four printed copies forthwith~~ courier, electronic transmission or other means.
- (911) A *party* who serves or *files* a *document* must include with it:
- (i) the *party's* name, ~~and contact details, including~~ address, telephone number, ~~facsimile number~~ and e-mail address, as *applicable*, or
  - (ii) if the *party* is represented by counsel or an agent, the name, ~~and contact details, including~~ address, telephone number, ~~facsimile number~~ and e-mail address of the *party's* counsel or agent,
  - (iii) the name of the proceeding to which the *document* relates, and
  - (iv) the name of *each party*, counsel or agent served with the *document*.
- (1012) Subject to *Corporation requirements*, a *document* that is *filed* must be made available by the ~~National Hearing Officer~~ Office for public inspection ~~in the office in which the document is filed during the Corporation's normal business hours~~, unless confidentiality is requested and a *hearing panel* applying the standard in clause 8203(5)(iii) or 8203(5)(iv) orders otherwise.

(13) A hearing panel may waive or validate service.

**8407. National Hearing ~~Officer~~Office**

- (1) The ~~National Hearing Officer~~ Office administers all proceedings brought pursuant to the *Rules of Procedure*, including:
- (i) the selection of members of *hearing panels*,
  - (ii) scheduling and *arranging hearings* and *prehearing conferences*,
  - (iii) care, custody and distribution to members of *hearing panels* of *filed documents*,

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- (iv) maintaining a *hearing* record, including original exhibits,
  - (v) dating and *distributing* written *hearing panel decisions* and reasons to *parties* to a proceeding,
  - (vi) issuing and serving a notice or summons to attend and testify or produce *documents*, where *so* authorized by a *decision* of a *hearing panel*, and
  - (vii) any *other* administrative functions that are reasonably necessary for the efficient conduct of a proceeding.
- (2) The ~~National~~ Hearing ~~Officer~~Office acts as liaison between members of a *hearing panel* and *parties* to a proceeding and, other than in the course of an ~~oral-hearing-or-electronic~~ *hearing*, a *party* must communicate to a *hearing panel* through the ~~National~~ Hearing ~~Officer~~Office and serve all other *parties* with the communication.
  - (3) The ~~National~~ Hearing ~~Officer~~Office may seek the advice of the chair of a *hearing committee* in the District with respect to legal, administrative or procedural issues.
  - (4) The ~~National~~ Hearing ~~Officer~~Office, after consultation with the chairs of the *hearing committees* in all *Districts*, may publish on the *Corporation's* website guidelines concerning practices to be followed under the *Rules of Procedure*.
  - (5) The ~~National~~ Hearing ~~Officer~~Office may prescribe the form and format of *documents* and forms that are required to be *filed* under the *Rules of Procedure*.
  - (6) The ~~National~~ Hearing ~~Officer~~Office may designate *individuals* to perform the functions for which the ~~National~~ Hearing ~~Officer~~Office is responsible under the *Rules of Procedure*.

### 8408. Hearing panels

- (1) The ~~National~~ Hearing ~~Officer~~Office is responsible for the selection of members of a *hearing panel* from members of a *hearing committee*.
- (2) In connection with the selection of a *hearing panel*, the ~~National~~ Hearing ~~Officer~~Office may consult with or seek the advice of the chair of a *hearing committee* in the District.
- (3) For a *hearing* under sections 8209, 8210, 8215 or Rule 9300, the ~~National~~ Hearing ~~Officer~~Office must, subject to subsections 8408(4) and 8408(6), select two *industry members* and one *public member* from the *hearing committee* of the applicable *District* as members of the *hearing panel*.
- (4) If the chairs of both *hearing committees* consent, the ~~National~~ Hearing ~~Officer~~Office may select a member of a *hearing committee* in one *District* to serve on a *hearing panel* in another *District*, but a *hearing panel* that considers a matter that relates to conduct in Québec must have a majority of members who reside in Québec.
- (5) The ~~National~~ Hearing ~~Officer~~Office must appoint a *public member* as the chair of a *hearing panel*, and if the matter relates to conduct in Québec, the chair must be a *public member* of the *hearing committee* in the Québec *District*.
- (6) The ~~National~~ Hearing ~~Officer~~Office may appoint a one-member *hearing panel* consisting of a *public member* of a *hearing committee* in a proceeding under section 8211 or section 8212, a motion or *prehearing conference*, or to act as case manager of a proceeding.

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- (7) The ~~National Hearing Officer~~ Office must not select an *individual* to be a member of a *hearing panel*, if the *individual*:
  - (i) is an officer, partner, director, employee or *associate* of, or is providing services to, a *party* or if a *party* is an *affiliate*, *associate* or employee of another *person* with whom the *individual* is in such a relationship,
  - (ii) has or had another relationship to a *party* or matter that may create a reasonable *apprehension* of bias,
  - (iii) is precluded from acting as a member of the *hearing panel* by *Corporation requirements*, any law applicable in the *District* in which the *hearing* is held or by the recognition order or registration under *securities laws* of a *Marketplace* whose rules are the subject of the *hearing*, or
  - (iv) was consulted by or advised the ~~National Hearing Officer~~ Office in connection with the *selection* of the *hearing panel*.
- (8) The ~~National Hearing Officer~~ Office may not select an *individual* who is a member of a *hearing panel* in a proceeding under sections 8211 or 8212 as a member of a *hearing panel* on a subsequent *hearing* relating to the same matter, including a motion for a stay of a *sanction* imposed under section 8212, unless all *parties* consent to the selection of the member.
- (9) The ~~National Hearing Officer~~ Office may not select a member of a *hearing panel* who participates in a *prehearing conference* or who case manages a proceeding to be a member of the *hearing panel* on the merits, unless all *parties* consent to the selection of the member.
- (10) If a member of a *hearing panel* becomes unable to continue to serve as a member of the *hearing panel* for any reason, the remaining members may continue to hear the matter and render a *decision*, but only with the consent of all *parties*, and if neither of the remaining members is the chair, the *hearing panel* may retain its own legal counsel to advise it on legal and procedural issues, but not on the merits of the proceeding.
- (11) A decision of a *hearing panel* must be made by a majority of its members, and if the *hearing panel* consists of two members, must be unanimous.

**8409. Form of hearings**

- (1) Subject to subsections 8409(2) through 8409(~~119~~), a *hearing panel* may conduct a *hearing* as an *oral hearing*, ~~electronic hearing~~ or a written hearing.
- (2) A hearing panel may conduct an oral hearing in one or more of the following forms:
  - (i) with some or all parties participating electronically (by telephone, videoconference, or another form of electronic technology that allows persons to hear one another), or
  - (ii) with some or all parties physically present in the hearing room.
- (3) A hearing panel may determine the form of an oral hearing or oral part of a hearing including with respect to parties' physical presence in the hearing room. In making this determination, the hearing panel may consider subsections 8409(5) through 8409(7).

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- (4) Subject to subsections ~~8409(3)~~8409(5) through ~~8409(9)~~8409(11), a *written hearing* may be held only for:
- (i) a motion relating to procedural issues,
  - (ii) a *hearing* on agreed facts, and
  - (iii) any other motion or *hearing* that a *hearing panel* considers appropriate.
- (35) In determining whether to hold a *hearing* as an ~~oral hearing, electronic~~oral *hearing* or *written hearing*, or in determining the appropriate form of an oral hearing, a *hearing panel* may consider any relevant factors, including:
- (i) the nature of the *hearing*, the subject matter of the *hearing*, and the issues to be *addressed*, including whether they are issues of fact, law or procedure,
  - (ii) the *evidence* to be presented, including whether facts are in dispute and credibility is an issue,
  - (iii) the cost, efficiency and timeliness of the *hearing* or the proceeding,
  - (iv) any delay that might be caused by proceeding electronically or in a hearing room,
  - (v) the efficacy of examination or cross-examination of witnesses,
  - (vi) the *fairness* of the *hearing* process to, and the convenience of, each of the *parties*,  
~~and~~
  - ~~(vii)~~ accessibility to the *parties and the public*,
  - (viii) facilitation of participation by vulnerable or disadvantaged individuals, and
  - (ix) health and safety considerations, and measures that may be taken to mitigate related risks.
- (46) A party may request an ~~electronic~~oral *hearing* proceed in one of the two forms provided for in subsection 8409(2) or a *written hearing* in a *commencing notice*.
- (57) If ~~an electronic hearing or a party requests a written hearing is requested or an oral hearing~~ proceed in one of the two forms provided for in subsection 8409(2):
- (i) in a *notice of hearing*, a *party* may object to the requested form of *hearing* in the *party's response* or by bringing a motion,
  - (ii) in a *commencing notice* other than a *notice of hearing*, a *party* may object to the requested form of *hearing* by serving and *filing* a *notice of objection* within three days after the *commencing notice* is served on the *party*.
- (68) A *notice of objection* must state the reasons for the objection, including any prejudice the requested form of *hearing* may cause the *party* and the facts on which the *party* relies and may be accompanied by any evidence on which the *party* relies for the objection.
- (79) A *hearing panel* that receives a *notice of objection* may:
- (i) accept the objection and refer the matter to the ~~National Hearing Officer~~Office to set a date for an *oral hearing* or, with the consent of all *parties*, set a date for an ~~electronic~~oral *hearing* or *schedule* for a *written hearing*,
  - (ii) reject the objection, or

(iii) order a *written hearing* to consider the objection and provide other *parties* an opportunity to respond to the notice of objection in a manner and time that the *hearing panel* directs.

(810) If a notice of objection is filed, the *hearing panel* must render its *decision* on the form of *hearing* in writing as expeditiously as possible, taking into consideration the date and nature of the *hearing* and proceeding and the needs of the *parties* to present evidence and prepare and serve submissions and responding submissions.

(911) Unless a *party* objects, a *hearing panel* may, on its own motion or at a party's request, at any stage of a proceeding make an order continuing:

(i) ~~an electronic hearing or a~~ *written hearing* as an *oral hearing*,

and

(iv) an *oral hearing* ~~or a written hearing as an electronic hearing, and~~

(iii) ~~an oral hearing or an electronic hearing,~~ as a *written hearing*.

(1012) A *hearing panel* that orders an ~~electronic~~oral *hearing* be conducted electronically in whole or in part may require one or more of the *parties*:\_

(i) to make the arrangements for the *hearing*, and

(ii) to pay all or part of the costs of conducting the *hearing* ~~as~~electronically .

(13) Where a hearing panel orders that an ~~electronic~~oral hearing or an oral part of a hearing proceed with some or all of the parties physically present in the hearing room, all parties must be prepared for the form of any part of the hearing to change, including on short notice.

#### 8410. Hearing panel decisions

- (1) A decision of a *hearing panel* and the reasons for the *decision* must be dated by the ~~National Hearing Officer~~Office and served on each *party* in accordance with subsection 8406(3).
- (2) The *Corporation* must publish on its website a summary of the *decision* of a *hearing panel*, except a *decision* in a *prehearing conference*, containing:
  - (i) *Corporation requirements* or *applicable laws* that have been contravened,
  - (ii) the essential facts,
  - (iii) the *decision*, including any *sanction* and costs, and
  - (iv) except where the *decision* rejects a *settlement agreement*, a statement that a copy of the *decision* may be obtained on the *Corporation's* website.
- (3) The *Corporation* must publish on its website a *decision* of a *hearing panel* and the reasons for the *decision*, except a *decision* and reasons rejecting a *settlement agreement*.
- (4) A decision made by a *hearing panel* on the merits of a proceeding must be recorded in the record maintained by the *Corporation* with respect to the *respondent*.
- (5) In addition to a *decision* accepting a *settlement agreement* and the reasons for it, the *Corporation* must publish and record information concerning the accepted *settlement agreement* in accordance with subsections 8410(2) through 8410(4), as if the *settlement agreement* were a *decision* on the merits.



**8411. Language of hearings and interpreters**

- (1) A hearing may be conducted in English or French or partly in English or French.
- (2) A *hearing* in a *District* other than Québec must be conducted in English, unless the *parties*, with the consent of a *hearing panel*, agree that it be conducted in French.
- (3) A hearing in Québec must be conducted in French, unless the *parties*, with the consent of a *hearing panel*, agree that it be conducted in English.
- (4) A party who wishes a *hearing* to be conducted in French in a *District* other than Québec, or in Québec in English, must *file* a request with the ~~National Hearing Officer~~ Office as soon as possible after the proceeding is commenced.
- (5) A *party* who requires an interpreter for a language other than the language in which a *hearing* is to be conducted, whether to assist the *party* or for the testimony of a witness to be called by the *party*, must notify the ~~National Hearing Officer~~ Office at least 30 days before the commencement of the *hearing*.
- (6) An interpreter must be competent and independent and must swear or affirm to interpret accurately.
- (7) If a *party* requires an interpreter in a language other than English or French, whether to assist the *party* or for the testimony of a witness, the *party* must provide the interpreter at the *party's* own expense.

**8412. Commencement and abandonment of proceedings**

- (1) A proceeding, and a step in a proceeding that requires a notice, is commenced upon the issuance by the ~~National Hearing Officer~~ Office of a *commencing notice* at the request of a *party*.
- (2) A party who requests the issuance of a *commencing notice* must first obtain a date from the ~~National Hearing Officer~~ Office for:
  - (i) if the *commencing notice* is a notice of *hearing*, an initial appearance before a *hearing panel*,
  - (ii) if the *commencing notice* is a notice of *application*, the *hearing* of the *application*,
  - (iii) if the *commencing notice* is a notice of motion, the *hearing* of the motion,
  - (iv) if the *commencing notice* is a notice of *prehearing conference*, the *prehearing conference*, or
  - (v) if the *commencing notice* is a notice of request for review pursuant to sections 8427 or 8430, the *review hearing*,
 and must submit a copy of the *commencing notice* to the ~~National Hearing Officer~~ Office with a request that it be issued.
- (3) A request under subsection 8412(2) to the ~~National Hearing Officer~~ Office for a date or the issuance of a *commencing notice* must be made on a form prescribed by the ~~National Hearing Officer~~ Office.
- (4) If a *hearing panel* sets a date for a *prehearing conference*, or other *hearing* other than in connection with a *commencing notice*, the ~~National Hearing Officer~~ Office must give written

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notice of the date to the *parties* by mail or electronic transmission in accordance with clause 8406(3)(vi) or 8406(3)(vii).

- (5) Upon issuing a *commencing notice* or other notice of a *hearing*, the ~~National Hearing Officer~~ Office must place a copy of the *commencing notice* or other notice in a file maintained for the proceeding.
- (6) The *Corporation* must publish on its website an announcement of and copy of a *commencing notice* or other notice as soon as practicable after it is issued by the ~~National Hearing Officer~~ Office, unless the *commencing notice* is for an *application* under section 8211 made without notice to the *respondent* or is a notice of *prehearing conference*.
- (7) A party who initiates a proceeding or a step in a proceeding that requires a notice may abandon the proceeding or step before it has been decided by a *hearing panel* by serving and *filing* a notice of abandonment.
- (8) If a proceeding or a step in a proceeding is abandoned, the *Corporation* must publish on its website an announcement of and a copy of the notice of abandonment as soon as practicable after it is *filed*, unless the *commencing notice* for the proceeding or step has not been so published.

### 8413. Motions

- (1) A motion must be commenced by a notice of motion.
- (2) A motion may be brought:
  - (i) with the consent of a *hearing panel*, prior to, or
  - (ii) at any time after,the commencement of a proceeding.
- (3) Where a motion is to be heard before a hearing on the merits, the party who brings a motion must obtain a date for the motion from the Hearing Office.
- (4) A party who brings a motion must serve and *file* a motion record at least 14 days prior to the date of the motion, unless the motion is brought during a *hearing*, in which case the *hearing panel* may determine the procedure to be followed for the motion.
- (45) A *hearing panel* may permit a party to bring a motion without notice to the *respondent*, if the nature of the motion or the circumstances make service of a notice of motion impractical.
- (65) A notice of motion must contain:
  - (i) the date, time and location of the *hearing* of the motion,
  - (ii) the relief sought,
  - (iii) a summary of the grounds for the relief sought, including reference to any *Corporation requirements* or *applicable laws*,
  - (iv) a list of evidence and other materials to be relied on, and
  - (v) ~~whether it is~~ the proposed that form of the motion be heard as an ~~oral hearing;~~ *electronic hearing or written hearing*.

- (76) A motion record must contain:
- (i) the notice of motion, and
  - (ii) copies of the evidence, including affidavits and other materials relied on.
- (87) A responding *party* may serve and *file* a responding record at least nine days prior to the date of the motion, unless the motion is brought during a *hearing* and the *hearing panel* orders otherwise.
- (98) A responding record must contain:
- (i) the order requested by the *responding party*, including a statement of the reasons for the order requested, and
  - (ii) copies of any additional evidence, including affidavits and other materials relied on.
- (109) A *party* who is served with a responding record that contains affidavit evidence may serve and *file* a reply record containing additional affidavit evidence at least seven days before the date of the motion.
- (1140) A *party* who *files* an affidavit in connection with a motion must make the person who swears to an affidavit reasonably available to be cross-examined by an adverse *party* prior to the *hearing* of the motion.
- (1214) A *party* who brings a motion may serve and *file* a memorandum of fact and law at least five days before the date of the motion.
- (1312) A responding *party* may serve and *file* a memorandum of fact and law at least two days before the date of the motion.
- (1413) A motion must be heard by a *hearing panel*.
- (1514) A *hearing panel* may, on any terms and conditions it considers appropriate, permit oral testimony to be adduced at the *hearing* of a motion on any matter in issue and allow cross-examination of the person who swears to an affidavit.
- (1615) A *hearing panel* may:
- (i) grant the relief requested in a motion,
  - (ii) dismiss or adjourn the motion in whole or in part, with or without terms, or
  - (iii) make another decision it considers appropriate, including adjourning the motion to be heard by the *hearing panel* that hears the proceeding on its merits.

## PART B - ENFORCEMENT PROCEEDINGS

### 8414. Commencement of disciplinary proceedings

- (1) Forthwith after a proceeding pursuant to section 8209 or 8210 is commenced, *Enforcement Staff* must serve the *respondent* with, and *file*, the notice of *hearing* and a statement of allegations.
- (2) A notice of *hearing* must contain:
  - (i) the date, time and location of an initial appearance before a *hearing panel*,
  - (ii) a statement of the purpose of the proceeding,
  - (iii) a statement that the allegations on which the proceeding is based are contained in the statement of allegations,

**Commented [IIACS]:** Suggest that Statement of Allegations, which are unproven, not be posted or, if posted, responses be posted as well. Further suggest that following a settlement or decision, statement of allegations, if posted, be removed.

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- (iv) a reference to *Corporation requirements* under which the proceeding is brought,
  - (v) the nature of the *sanctions* that may be imposed,
  - (vi) ~~if the notice of hearing states that the hearing is to be an electronic hearing or written hearing,~~ a statement that the *respondent* may object to the ~~type~~form of hearing and the procedure to be followed for an objection,
  - (vii) a statement that the *respondent* must provide a response to the notice of *hearing* in accordance with section 8415, the time within which a response must be served and *filed* and the consequences of failing to do so,
  - (viii) a statement that the initial appearance will be followed immediately by an initial *prehearing conference*, for which a *prehearing conference* form must be *filed* in accordance with subsection 8416(5),
  - (ix) a statement notifying the *respondent* that they may be self-represented or may be represented by counsel or an agent,
  - (x) a statement notifying the *respondent* that they are entitled to:
    - (a) appear and be heard at the *hearing*,
    - (b) call and examine witnesses and present documentary and other evidence, and
    - (c) cross-examine witnesses as reasonably required for a full and fair disclosure of all matters relevant to the issues in the proceeding, and
  - ~~(xi)~~ any other information that *Enforcement Staff* considers advisable.
- (3) A statement of allegations may accompany or comprise part of a notice of *hearing* and must contain:
- (i) a reference to *Corporation requirements* or *applicable laws* that the *respondent* is alleged to have contravened,
  - (ii) the facts alleged in support of the alleged contraventions, and
  - (iii) the conclusions of *Enforcement Staff* based on the alleged facts.
- (4) The date of an initial appearance set out in a notice of *hearing* must not be less than 45 days after the notice of *hearing* is served, unless the *respondent* consents to an earlier date.

### 8415. Response to a notice of hearing

- (1) A *respondent* must serve and *file* a response within 30 days from the date of service of a notice of hearing.
- (2) A response must contain a statement of:
  - (i) the facts alleged in the statement of allegations that the *respondent* admits,
  - (ii) the facts alleged that the *respondent* denies and the grounds for the denial, and
  - (iii) all other facts on which the *respondent* relies.
- (3) A *hearing panel* may accept as proven any facts alleged in a statement of allegations that are not specifically denied or for which grounds for the denial are not provided in a response.
- (4) If a *respondent* who has been served with a notice of *hearing* does not serve and *file* a response in accordance with subsection 8415(1), the *hearing panel* may proceed with the

hearing of the matter on its merits on the date of the initial appearance set out in the notice of *hearing*, without further notice to and in the absence of the *respondent*, and the *hearing panel* may accept as proven the facts and contraventions alleged in the statement of allegations and may impose *sanctions* and costs pursuant to section 8209 or 8210, as applicable.

#### 8416. Prehearing conferences

- (1) At any time prior to commencement of the *hearing* of a proceeding on the merits or at any time during the course of an investigation:
  - (i) a *hearing panel* may order a *prehearing conference*, or
  - (ii) a party may request a *prehearing conference* by serving and *filing* a notice of *prehearing conference* at least 14 days before the date of the *prehearing conference*.
- (2) In addition to (1), the parties are required to schedule a prehearing conference prior to the commencement of any hearing, with the exception of review proceedings in Parts C and D.
- (3) A notice of *prehearing conference* must contain:
  - (i) the date, time, location and purpose of the *prehearing conference*,
  - (ii) any order of a *hearing panel* concerning the obligations of the *parties* with respect to the *prehearing conference*, including:
    - (a) any requirement concerning the exchange or *filing* of *documents* or submissions pursuant to subsection 8416(7), and if so the issues to be addressed and the date by which the *documents* or submissions must be exchanged and *filed*,
    - (b) whether the *parties* must attend in person,
  - (iii) a statement that the *parties* may be represented by counsel or an agent who, if a *party* is not required to attend, must have authority to make agreements and undertakings on the *party's* behalf,
  - (iv) whether it is proposed that the *prehearing conference* is to be :
    - (a) heard orally, with parties physically present in the hearing room or participating electronically, or
    - (b) in writing,
  - (v) a statement that if a *party* does not attend ~~in person~~ themselves or by counsel or an agent, the *hearing panel* may proceed with the *prehearing conference* in the *party's* absence, and
  - (vi) a statement that any orders made by the *hearing panel* will be binding on the *parties*.
- (4) If a *hearing panel* orders a *prehearing conference*, the ~~National Hearing Officer~~ Office must set a date for the *prehearing conference*, if necessary, and serve a notice of *prehearing conference* on the *parties* with a copy of the *decision* of the *hearing panel*.
- (5) If a *respondent* has served and *filed* a response in accordance with subsection 8415(1), the initial appearance provided in a notice of *hearing* must be followed immediately by an initial *prehearing conference*, for which no notice of *prehearing conference* is required.

**Commented [IIAC6]:** Prehearing conferences should be available sooner in the process and not be dependant on the issuance of a statement of allegations

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- (6) If a response has been served and *filed*, the *parties* must serve and *file* a *prehearing conference* form, in a form prescribed by the ~~National Hearing~~ Officer Office, at least five days before the date of the initial appearance specified in the notice of *hearing*.

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- (7) At a prehearing *conference*, a *hearing panel* may consider any issue that may assist in a just and expeditious resolution of the proceeding or investigation, including:
- (i) identification, simplification and clarification of the issues,
  - (ii) disclosure of *documents*, including expert reports,
  - (iii) facts or evidence on which the *parties* agree,
  - (iv) admissibility of evidence, including evidence to be admitted on consent and identification of objections,
  - (v) scheduling of motions,
  - (vi) procedural issues, including identifying and setting dates by which steps in the proceeding are to be commenced or taken, the estimated duration of a *hearing* and the dates on which the *hearing* will commence and be conducted,
  - (vii) settlement of any or all issues in the proceeding or investigation, and
  - (viii) any other procedural or substantive matters.
- (8) A *hearing panel* at a *prehearing conference* may:
- (i) set a timetable for steps preceding a *hearing* and for the *hearing*,
  - (ii) schedule further *prehearing conferences*, preliminary motions and the *hearing* of the proceeding on its merits,
  - (iii) amend an existing schedule or timetable,
  - (iv) set the issues to be addressed at a further *prehearing conference* or in a motion,
  - (v) order the *parties* to exchange or *file* by a specified date *documents* or submissions for purposes of a further *prehearing conference* or a motion,
  - (vi) order that the proceeding or investigation be case managed by the *hearing panel* or another *hearing panel* to be selected by the ~~National Hearing Officer~~ Office, with or without the consent of the parties,
  - (vii) exercise the authority conferred by section 8208 to require a *person* to attend and give evidence or produce *documents* at a *hearing*, and
  - (viii) with the consent of the *parties*, make an order resolving any matter, including matters relating to:
    - (a) facts or evidence agreed on,
    - (b) disclosure of *documents* or evidence,
    - (c) the resolution of any or all of the issues in the proceeding or investigation, and
  - (ix) make any other procedural order that the *hearing panel* believes will further the just and expeditious conduct of the proceeding or investigation.
- (9) A *hearing panel* that case manages a proceeding must preside over all *prehearing conferences* and preliminary motions in the proceeding, unless the *hearing panel* orders otherwise.
- (10) An order, agreement or undertaking that is made or given at a *prehearing conference* must be recorded in a prehearing memorandum that is:
- (i) prepared by or under the direction of the *hearing panel* taking into account the principles in subsections 8416(12) and 8416(13),

- (ii) circulated to the *parties* for comment,
  - (iii) approved and signed by the *hearing panel*, and
  - (iv) distributed to the *parties* and any other *person* that the *hearing panel* directs.
- (11) A prehearing memorandum must be *filed* and provided to the *hearing panel* at subsequent *hearings* in the proceeding.
- (12) An order, agreement or undertaking recorded in a prehearing memorandum is binding on the *parties*, unless a *hearing panel* orders otherwise.
- (13) Unless recorded in a prehearing memorandum, all statements and written submissions made at a *prehearing conference* are without prejudice and must not be communicated to a *hearing panel*, except at a subsequent *prehearing conference*.
- (14) A prehearing *conference* must be held in the absence of the public, and subject to subsections 8416(9) and 8416(10), prehearing *documents*, exhibits, submissions and transcripts must not be disclosed to the public.
- (15) A prehearing agreement to settle all of the issues in a proceeding is subject to approval by another *hearing panel* pursuant to section 8215.

**8417. Disclosure**

- (1) As soon as is reasonably practicable after a response is served and *filed*, and if requested by the *respondent*, *Enforcement Staff* must disclose to and make available for inspection by a *respondent* all *documents* and things in the *Corporation's* possession or control that are relevant to the proceeding, including *documents* and things that are relevant to the *respondent's* ability to make full answer and defence.
- (2) *Enforcement Staff* must provide copies to, in hard copy or electronic form, or permit a *respondent* to make copies of all *documents* and things specified in subsection 8417(1) as soon as is reasonably practicable after it makes disclosure and no later than 40 days before the commencement of the *hearing* on the merits.
- (3) As soon as is reasonably practicable after a response is served and *filed*, and no later than 40 days before the commencement of the *hearing* on the merits, each *party* to a proceeding must serve every other *party* with:
- (i) all *documents* that the *party* intends to produce or enter as evidence at the *hearing* on the merits, and
  - (ii) a list of items, other than *documents*, that the *party* intends to produce or enter as evidence at the *hearing* on the merits.
- (4) At any stage of a proceeding, a *hearing panel* may order a *party* to provide to another *party* any *document* or other information that the *hearing panel* considers appropriate, within a time period and on terms and conditions determined by the *hearing panel*.
- (5) A party who does not disclose a *document* or thing in compliance with subsections 8417(3) and 8417(4) may not introduce in evidence or refer to the *document* or thing at a *hearing* on the merits without leave of the *hearing panel* on terms and conditions the *hearing panel* considers just.



**8418. Witness lists and statements**

- (1) Subject to section 8417, as soon as reasonably practicable after a response is served and *filed*, and no later than 30 days before the commencement of the *hearing* on the merits, *Enforcement Staff* must serve:
  - (i) a list of the witnesses *Enforcement Staff* intends to call to testify at the *hearing*, and
  - (ii) in respect of each witness named on the list, a summary of the evidence the witness is expected to give at the *hearing*, a witness statement signed by the witness or a transcript of a recorded statement of the witness.
- (2) Subject to section 8417, as soon as reasonably practicable after a response is served and *filed*, and no later than 20 days before the commencement of the *hearing* on the merits, a *respondent* must serve:
  - (i) a list of the witnesses, not including the *respondent*, whom the *respondent* intends to call to testify at the *hearing*, and
  - (ii) in respect of each witness named on the list, a summary of the evidence the witness is expected to give at the *hearing*, a witness statement signed by the witness or a transcript of a recorded statement of the witness, unless the transcript was disclosed by *Enforcement Staff* pursuant to section 8417 or subsection 8418(1).
- (3) A summary of expected evidence, witness statement or transcript served in accordance with subsection 8418(1) or 8418(2) must contain:
  - (i) the substance of the evidence of the witness,
  - (ii) a reference to any *document* the witness will refer to, and
  - (iii) the name, address and telephone number of the witness or of a *person* through whom the witness can be contacted.
- (4) A *party* who does not include a *person* in a witness list or disclose the *person's* expected evidence in accordance with subsections 8418(1) through 8418(3) may not call the *person* as a witness at the *hearing* without leave of the *hearing panel* on terms and conditions the *hearing panel* considers just.
- (5) A witness may not testify to matters not disclosed in accordance with subsection 8418(3) without leave of the *hearing panel* on terms and conditions the *hearing panel* considers just.

**8419. Expert witnesses**

- (1) A *party* who intends to call an expert witness at a *hearing* must, at least 45 days before the commencement of the *hearing*, serve a written report signed by the expert.
- (2) A *party* who intends to call an expert witness in response to an expert's report served pursuant to subsection 8419(1) must, at least 20 days before the commencement of the *hearing*, serve a written report signed by the expert.
- (3) A *party* who intends to call expert evidence to reply to a responding expert's report served pursuant to subsection 8419(2) must, at least 10 days before the commencement of the *hearing*, serve a written report in reply signed by the expert.
- (4) An expert's report must contain:

- (i) the name, address and qualifications of the expert,
  - (ii) the substance of the expert's evidence, and
  - (iii) a reference to any *document* the expert will refer to.
- (5) A *party* who does not comply with subsection 8419(1), 8419(2) or 8419(4) may not call the expert as a witness or introduce in evidence or refer to the expert's report or opinion at a *hearing*, without leave of the *hearing panel* on terms and conditions the *hearing panel* considers just.
- (6) If the *party* who calls an expert witness has not complied with subsection 8419(3), the expert witness may not testify to matters for which an expert's report in reply was required, without leave of the *hearing panel* on terms and conditions the *hearing panel* considers just.

**8420. Deemed undertaking**

- (1) In this section, "information" means evidence and information obtained from a *party* that is required to be disclosed or provided pursuant to sections 8416, 8417, 8418 and 8419 prior to a hearing on the merits, including evidence and information disclosed or provided in a *prehearing conference*, and any information obtained from such evidence or information.
- (2) This section does not apply to *information* obtained otherwise than under section 8416, 8417, 8418 or 8419 or in a *prehearing conference*.
- (3) A party and its counsel or agent are deemed to undertake not to disclose or use *information* for any purposes other than those of the proceeding in which the *information* was obtained, without the consent of the *party* who disclosed or provided the *information* or *information* on the basis of which the *information* was obtained.
- (4) Subsection 8420(3) does not prohibit use of *information* that is:
- (i) *filed* with the ~~National Hearing Officer~~ Office,
  - (ii) given or referred to during a *hearing*, or
  - (iii) obtained from information referred to in clauses 8420(4)(i) and 8420(4)(ii).
- (5) Notwithstanding subsection 8420(3), *information* may be used to impeach the testimony of a witness in another proceeding.
- (6) A *hearing panel* may permit the use of *information* that is subject to this section for purposes other than those of the proceeding in which it was disclosed or provided, if the *hearing panel* is satisfied that the public interest outweighs any prejudice that would result to the *party* who disclosed the *information* or the *person* from whom it was obtained by that *party*, subject to any terms and conditions the *hearing panel* considers just.

**8421. Order to attend and issue of summons**

- (1) At any stage of a proceeding, a *party* may request a *hearing panel* to exercise its authority under section 8208 to require a *person* to attend and give evidence or produce *documents* at a hearing.
- (2) If a *hearing panel* orders a *person* who is subject to the *Corporation's* contractual jurisdiction to attend and give evidence or produce *documents*, the ~~National Hearing~~

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~~Officer~~Office must serve a notice, in a prescribed form, by personal service in accordance with clause 8406(3)(i), 8406(3)(iv) or 8406(3)(v), requiring the attendance of the *person* to give evidence or produce *documents*, as ordered by the *hearing panel*.

- (3) If a *hearing panel* orders an employee, partner, director or officer of a *Regulated Person*, who is not an *Approved Person*, to attend at a *hearing*, the ~~National Hearing~~ OfficerOffice must serve a notice on the *person* in accordance with subsection 8421(2) and on the *Regulated Person* requiring the *Regulated Person* to direct the *person* to comply with the order.
- (4) If a *hearing panel* orders a *person* who is not subject to the *Corporation's* contractual jurisdiction to attend and give evidence or produce *documents* in a *District* in which the *hearing panel* is authorized by law to do so, the ~~National Hearing~~ OfficerOffice must serve a summons or subpoena in accordance with the procedure prescribed by law for the issue of a summons or subpoena by a court, regulatory tribunal or analogous decision maker in the *District*.

### 8422. Adjournments

- (1) A *party* who decides to request an adjournment of a *hearing* on the merits must immediately so advise the other *parties* and the ~~National Hearing~~ OfficerOffice in writing.
- (2) If the other *parties* consent to the request for an adjournment, the *requesting party* may serve and *file* a written request for the adjournment stating that it is made on consent, and a *hearing panel* may:
  - (i) refuse the request,
  - (ii) reschedule the *hearing* without a *hearing* on the request, or
  - (iii) require a *hearing* on the request.
- (3) If the *parties* do not consent to a request for an adjournment, the *requesting party* must bring a motion as soon as possible and the notice of motion must contain:
  - (i) the reasons for the adjournment,
  - (ii) the length of time requested for the adjournment, and
  - (iii) if the motion is brought fewer than 40 days before the date of the *hearing*, a request for an abridgement of the times specified in section 8413, if necessary.
- (4) If a motion requesting an adjournment cannot be heard at least 20 days before the date for the commencement of the *hearing* and the *parties* do not consent, the motion must be heard at the commencement of the *hearing* and the *requesting party* must be prepared to proceed if the motion is denied.
- (5) A *hearing panel* may grant or deny an adjournment on any terms and conditions it considers just.

### 8423. Conduct of hearing on the merits

- (1) At a *hearing* on the merits a *respondent* is entitled to be represented by counsel or an agent and to make submissions.
- (2) At a *hearing* on the merits, other than a *written hearing*, a *respondent* is entitled:
  - (i) to attend and ~~be heard in person~~ present their case,

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- (ii) to call and examine witnesses and present documentary and other evidence, and
  - (iii) to cross-examine witnesses as reasonably required for a full and fair disclosure of all matters relevant to the issues in the proceeding.
- (3) A *hearing* on the merits, other than a *written hearing*, must be conducted in the following order:
- (i) *Enforcement Staff* may make an opening address, which may be followed by an opening address by the *respondent*,
  - (ii) *Enforcement Staff* must present its evidence and examine its witnesses, who may be cross-examined by the *respondent*,
  - (iii) if the *respondent* has not made an opening address immediately following *Enforcement Staff's* opening address, the *respondent* may make an opening address and must present its evidence and examine its witnesses, who may be cross-examined by other *parties*,
  - (iv) *Enforcement Staff* may present evidence in reply to any evidence presented for the first time by the *respondent* and examine witnesses, who may be cross-examined by the *respondent*,
  - (v) if the *hearing panel* requests or permits, the *parties* may serve and *file*, by dates ordered by the *hearing panel*, submissions in writing on the facts and legal argument with respect to the contraventions alleged in the notice of *hearing*, which submissions must not be made public prior to the commencement of the *hearing* of the submissions, and, if necessary, the ~~National Hearing Officer~~Office must set a date for the *hearing* of such submissions,
  - (vi) *Enforcement Staff* may make closing submissions, followed by the *respondent's* closing submissions and *Enforcement Staff's* reply to issues raised by the *respondent*,
  - (vii) unless the *parties* agree otherwise, after the *hearing panel* makes its *decision* on the merits of the allegations in the notice of *hearing*, the ~~National Hearing Officer~~Office must set a date for the presentation of additional evidence, if any, and the *hearing* of submissions on *sanctions* and costs, and
  - (viii) the *hearing panel* may request or permit the *parties* to serve and *file* written submissions on *sanctions* and costs, which submissions must not be made public prior to the commencement of the *sanctions hearing*.
- (4) After cross-examination of a witness, the *party* who called the witness may further examine the witness with respect to matters raised for the first time in cross-examination.
- (5) Following examination and cross-examination of a witness, a *hearing panel* may ask questions of the witness, subject to the right of the *parties* to ask further questions with respect to matters raised by the *hearing panel*.
- (6) If two or more *respondents* are separately represented, the *hearing panel* may direct the order of presentation.
- (7) A *hearing panel* may control the scope and manner of questioning of a witness to protect the witness from undue harassment.

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- (8) A *hearing panel* may order a witness to be excluded from a *hearing* until the witness is called to give evidence, unless the presence of the witness is necessary to instruct a *party's* counsel or agent, in which case the *hearing panel* may require the witness to be called to give evidence before other witnesses are called.
- (9) If a *hearing panel* orders the exclusion of a witness, evidence given during the witness's absence from the *hearing* must not be communicated to the witness until the witness has completed giving evidence, except with leave of the *hearing panel*.
- (10) A *hearing panel* may permit a *party* to present the evidence of a witness or proof of a particular fact or *document* by affidavit, unless another *party* reasonably requires the attendance of the witness at the *hearing* for cross-examination.
- (11) If a *hearing panel* requests or permits the *parties* to make written submissions on *sanctions* and costs, unless the *hearing panel* orders otherwise:
  - (i) the date set for the *sanctions hearing* must be at least 30 days after the date of the *decision* on the merits,
  - (ii) *Enforcement Staff* must serve and *file* submissions at least 14 days before the *sanctions hearing*,
  - (iii) the *respondent* must serve and *file* submissions at least seven days before the *sanctions hearing*, and
  - (iv) *Enforcement Staff* must serve and *file* any reply submissions at least three days before the *sanctions hearing*.
- (12) If a respondent who has been served with a notice of *hearing* does not attend the *hearing* on the merits, the *hearing panel*:
  - (i) may proceed with the *hearing* in the *respondent's* absence and may accept as proven the facts and contraventions alleged in the notice of *hearing* and statement of allegations, and
  - (ii) if it finds that the *respondent* committed the alleged contraventions, may hear submissions on *sanctions* from *Enforcement Staff* immediately, without a further *hearing* on *sanctions* and costs, and may impose *sanctions* and costs pursuant to sections 8209 or 8210, as it considers appropriate.

### 8424. Written hearings

- (1) If a hearing is a *written hearing*, the *party* who serves a *commencing notice* must, with the motion or other record required by the *Rules of Procedure* or within a time directed by a *hearing panel*, serve and *file* the *party's* written submissions containing, as applicable:
  - (i) a statement of agreed facts,
  - (ii) the *party's* factual and legal submissions, and
  - (iii) any material ordered by the *hearing panel*.
- (2) A *respondent* or *responding party* may respond, within the time provided in subsection 8413(8.7) or in a *decision* of a *hearing panel*, by serving and *filing* a responding motion record, if applicable, and the *party's* factual and legal submissions.

- (3) A *party* may reply to a response served pursuant to subsection 8424(2), within the time provided in subsection 8413(109) or in a *decision* of a *hearing panel*, by serving and *filing* a reply record, if applicable, and the *party's* factual and legal submissions.
- (4) A *hearing panel* may:
  - (i) require a *party* to serve and *file* additional information,
  - (ii) on request of a *party*, order that a *party* present a witness to be examined or cross-examined on any terms and conditions the *hearing panel* directs, and
  - (iii) after considering the record, order that the *hearing* be continued as an *oral hearing* ~~or *electronic* hearing~~.

#### 8425. Temporary orders

- (1) Where a proceeding pursuant to section 8211 is commenced, *Enforcement Staff* must *file* a notice of *application* and *application* record at least five days prior to the date of the *hearing* or a shorter period permitted by a *hearing panel*.
- (2) An application under subsection 8425(1) may be made with or without notice to the *respondent*.
- (3) A notice of *application* must contain:
  - (i) the date, time and location of the *hearing*,
  - (ii) whether notice has been given to the *respondent*,
  - (iii) a statement of the purpose of the proceeding,
  - (iv) the sanctions requested by *Enforcement Staff*,
  - (v) the grounds for the *application*, including a reference to any *Corporation requirements* or *applicable laws* that the *respondent* is alleged to have contravened,
  - (vi) a statement of the facts alleged that support the alleged contraventions and the need for a temporary order,
  - (vii) a list of documentary and other evidence relied on,
  - (viii) ~~whether it is the proposed that form of the application be heard as an oral hearing, electronic hearing or written hearing,~~ and
  - (ix) any other information that *Enforcement Staff* considers advisable.
- (4) An *application* record must contain:
  - (i) the notice of *application*, and
  - (ii) copies of the evidence, including affidavit and other materials relied on.
- (5) If an *application* under subsection 8425(1) is made with notice, *Enforcement Staff* must serve the *respondent* with the *application* record before it is *filed* and the *respondent* may serve and *file* a responding record at least two days prior to the date of the *hearing*.
- (6) A responding record must contain:
  - (i) the order requested by the *respondent*, including a statement of the reasons for the order requested, and
  - (ii) copies of any additional evidence, including affidavits and other materials relied on.

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- (7) A party to an *application* under subsection 8425(1) may serve, if notice is given, and *file* a memorandum of fact and law prior to the *hearing* of the *application*.
- (8) A hearing *panel* may, at any time, on any terms or conditions it considers appropriate, require oral testimony to be adduced at the *hearing* on any matter in issue and allow cross-examination on an affidavit.
- (9) A hearing *panel* may:
  - (i) grant the temporary order requested,
  - (ii) dismiss or adjourn the *application* in whole or in part, with or without terms, and
  - (iii) make another *decision* it considers appropriate.
- (10) If an *application* under subsection 8425(1) is made on notice, the *decision* and reasons of the *hearing panel* constitute the notice required by subsection 8211(3).
- (11) If an *application* under subsection 8425(1) is made without notice, a notice of a temporary order pursuant to subsection 8211(3) must contain:
  - (i) a statement that a temporary order has been made with respect to the *respondent*, describing the terms of the temporary order,
  - (ii) the grounds on which the temporary order was requested and a reference to the notice of application containing them, and
  - (iii) a summary of subsection 8211(2) and the date, time and location of a *hearing* pursuant to clause 8211(2)(i).
- (12) A notice of a temporary order under subsection 8425(11) must be accompanied by:
  - (i) a copy of the *decision* or order and reasons of the *hearing panel*,
  - (ii) a copy of the notice of *application* and *application* record filed by *Enforcement Staff*,
  - (iii) a summary of any oral evidence received by the *hearing panel* or a transcript of the *hearing*,
  - (iv) copies of any documentary or other evidence received by the *hearing panel* that is not contained in the *application* record, and
  - (v) any written submissions presented to the *hearing panel*.
- (13) A hearing to extend a temporary order must follow the procedure in section 8413 for a motion.

### 8426. Protective orders

- (1) Where a proceeding pursuant to section 8212 is commenced, *Enforcement Staff* must serve the *respondent* with, and *file*, a notice of *application* and *application* record at least five days prior to the date of the *hearing* or a shorter period permitted by a *hearing panel*.
- (2) A notice of *application* must contain:
  - (i) the date, time and location of the *hearing*,
  - (ii) a statement of the purpose of the proceeding,
  - (iii) the order requested by *Enforcement Staff*,
  - (iv) the grounds for the application, including a reference to any *Corporation* requirements or applicable laws that the *respondent* is alleged to have contravened,

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- (v) a statement of the facts alleged that support the alleged contraventions, the need for a protective order and the order sought,
  - (vi) a list of documentary and other evidence relied on,
  - (vii) ~~whether it is~~the proposed ~~that form of~~ the ~~application be heard as an oral hearing, electronic hearing or written~~ hearing, and
  - (viii) any other information that *Enforcement Staff* considers advisable.
- (3) An *application* record must contain:
- (i) the notice of *application*, and
  - (ii) copies of the evidence, including affidavits and other materials relied on.
- (4) *Enforcement Staff* must serve the *application* record before it is *filed* and a *respondent* may serve and *file* a responding record.
- (5) A responding record must contain:
- (i) the order requested by the *respondent*, including a statement of the reasons for the order requested, and
  - (ii) copies of any additional evidence, including affidavits and other materials relied on.
- (6) A party to an *application* under subsection 8426(1) may serve and *file* a memorandum of fact and law prior to the *hearing* of the *application*.
- (7) A *hearing panel* may, at any time, on any terms or conditions it considers appropriate, require oral testimony to be adduced at the *hearing* on any matter in issue and allow cross-examination on an affidavit.
- (8) A hearing *panel* may:
- (i) grant the order requested,
  - (ii) dismiss or adjourn the *application* in whole or in part, with or without terms, and
  - (iii) make any other *decision* authorized by subsection 8212(4) that it considers appropriate.

### 8427. Review of protective orders

- (1) A *party* who requests a review of a *decision* made under section 8212 must serve and *file*, within 30 days of the date of the *decision*, a notice of request for review and a review record.
- (2) A notice of request for review must contain:
- (i) the date, time and location of the *hearing* of the request for review,
  - (ii) the relief sought,
  - (iii) the grounds for the relief sought, including reference to any *Corporation requirements* or *applicable laws*,
  - (iv) a list of evidence and other materials relied on, and
  - (v) ~~whether it is~~the proposed ~~that form of~~ the ~~request for review be heard as an oral hearing, electronic hearing or written~~ hearing.
- (3) A review record must contain:
- (i) the notice of request for review, and



- (ii) copies of any additional evidence, including affidavits and other materials relied on.
- (4) Enforcement *Staff* must *file*, at least seven days prior to the date of the review *hearing*, a record that contains the record of the *hearing* under section 8212, the *decision* and reasons of the *hearing panel*, a transcript of the *hearing* and copies of any documentary or other evidence received by the *hearing panel* not otherwise contained in the record.
- (5) A responding *party* may serve and *file* a reply no later than seven days prior to the date of the review *hearing*.
- (6) A reply must contain:
  - (i) the order requested by the *responding party* and a statement of the reasons for the order requested, and
  - (ii) copies of any additional evidence, including affidavits and other material relied on.
- (7) The *parties* may serve and *file* a memorandum of fact and law no later than two days prior to the date of the review *hearing*.
- (8) A review *hearing* must be conducted in the following order:
  - (i) the *requesting party* may present evidence,
  - (ii) the *responding party* may present evidence,
  - (iii) the *requesting party* may make submissions,
  - (iv) the *responding party* may make submissions, and
  - (v) the *requesting party* may reply to the submissions of the *responding party*.
- (9) A *hearing panel* may at any time, on any terms or conditions it considers appropriate, require oral testimony to be adduced at the review *hearing* on any matter in issue and allow cross-examination on an affidavit.
- (10) At any time prior to a review *hearing*, a *requesting party* may bring a motion for a stay of an order made under subsection 8212(4).

**8428. Settlement hearings**

- (1) If a settlement *agreement* is made after a notice of *hearing* has been issued, a *settlement hearing* must be commenced by a notice of motion.
- (2) If a settlement *agreement* is made before a notice of *hearing* is issued, a *settlement hearing* must be commenced by a notice of *application*.
- (3) Enforcement *Staff* must serve the *respondent* with, and *file*, a *commencing notice* for a *settlement hearing* and must *file* copies of the *settlement agreement* at least seven days prior to the date of the *settlement hearing*, unless the *hearing* on the merits has commenced and the *hearing panel* orders otherwise.
- (4) A *commencing notice* for a *settlement hearing* must contain:
  - (i) the date, time and location of the *settlement hearing*,
  - (ii) the identity of the *respondent*,
  - (iii) a statement of the purpose of the *hearing*,
  - (iv) the general nature of the allegations addressed by the *settlement agreement*, and

- (v) ~~whether it is~~the proposed ~~that form of~~ the ~~settlement hearing be an oral hearing,~~ ~~electronic hearing or written~~ hearing.
- (5) A *settlement agreement* must not be open for inspection by the public unless it has been accepted by a *hearing panel*.
- (6) At a *settlement hearing*, facts that are not contained in the *settlement agreement* must not be disclosed to the *hearing panel* without the consent of all *parties*, unless the *respondent* does not appear, in which case *Enforcement Staff* may disclose additional relevant facts, if requested by the *hearing panel*.

**8429. Monitor**

- (1) A request for directions by *Enforcement Staff* or a *Monitor* must be made by bringing a motion in accordance with section 8413.

**PART C - REVIEW PROCEEDINGS****8430. Regulatory review hearings**

- (1) A party who requests a review of a *regulatory decision* must serve and *file*, within the time specified in *Corporation requirements* relating to the *regulatory decision* and:
  - (i) in the case of a decision made under section 9204, 9206 or 9207, at least 14 days, and
  - (ii) in the case of a decision under Part B of Rule 4100, no more than the number of days specified in Part B of Rule 4100, prior to the date of the *hearing*, a notice of request for review and a review record.
- (2) A notice of request for review must contain:
  - (i) the date, time and location of the *hearing* of the request for review,
  - (ii) the relief sought,
  - (iii) the grounds for the relief sought, including reference to any *Corporation requirements* or applicable *laws*,
  - (iv) a list of evidence and other materials relied on, and
  - (v) ~~whether it is~~the proposed ~~that form of~~ the ~~request for review be heard as an oral hearing, electronic hearing or written hearing..~~
- (3) A review record must contain:
  - (i) the notice of request for review,
  - (ii) any notice of the *regulatory decision* received by the *requesting party*,
  - (iii) the *regulatory decision* and any reasons for the *regulatory decision*,
  - (iv) any materials that accompanied the notice of the *regulatory decision* or the *regulatory decision* received by the *requesting party*,
  - (v) copies of any additional evidence, including affidavits and other materials relied on.
- (4) A responding *party* may serve and *file* a reply no later than seven days prior to the date of the review *hearing*.
- (5) A reply must contain:

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- (i) the order requested by the *responding party* and a statement of the reasons for the order requested, and
  - (ii) copies of any additional evidence, including affidavits and other material relied on.
- (6) The parties may serve and *file* a memorandum of fact and law no later than two days prior to the date of the review *hearing*.
- (7) A review *hearing* must be conducted in the following order:
- (i) the requesting *party* may present evidence,
  - (ii) the responding *party* may present evidence,
  - (iii) the requesting *party* may make submissions,
  - (iv) the responding *party* may make submissions, and
  - (v) the requesting *party* may reply to the submissions of the *responding party*.
- (8) A *hearing panel* may at any time, on any terms or conditions it considers appropriate, require oral testimony to be adduced at the review *hearing* on any matter in issue and allow cross-examination on an affidavit.

**PART D - SECURITIES REGULATORY AUTHORITY REVIEW**

**8431. Record for review**

- (1) A party who applies to a *securities regulatory authority* for review of a final *decision* of a *hearing panel* may obtain a copy of the record of the proceeding in which the *decision* was made by sending a request for the record, in prescribed form, to the ~~National~~ *Hearing Officer* Office.
- (2) The ~~National~~ *Hearing Officer* Office must provide a copy of the record of the proceeding to the *party* within a reasonable time after receipt of a request under subsection 8431(1), subject to payment of any applicable costs or fees.
- (3) Subject to subsection 8431(4), the record of a proceeding must include copies of:
- (i) the commencing *notice* in the proceeding,
  - (ii) any interim orders made in the proceeding,
  - (iii) any ~~preconference~~ *prehearing conference* memorandums,
  - (iv) documentary and other evidence adduced in the proceeding, subject to any limitations imposed under *Corporation requirements* by a *hearing panel* or by law,
  - (v) any other *documents* in the proceeding requested by a *party*,
  - (vi) a transcript of oral evidence given at the *hearing* on the merits, and
  - (vii) the *decision* and reasons of the *hearing panel*.
- (4) The ~~National~~ *Hearing Officer* Office may omit any *documents* from the record of a proceeding, if:
- (i) the *parties* consent and the *hearing panel* agrees, or
  - (ii) ~~the hearing panel so directs~~
- (5) The ~~National~~ *Hearing Officer* Office may require the *party* who requests the record of a proceeding to pay the costs of preparing a copy of the record and a reasonable fee for its preparation.

**Commented [IIAC7]:** Discretion should be limited to parties consent

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8432. – 8999. Reserved.

**SERIES 9000 | PROCEDURAL RULES – OTHER****RULE 9100 | COMPLIANCE EXAMINATIONS****9101. Introduction**

- (1) Rule 9100 sets out the powers of the *Corporation* to initiate and conduct compliance examinations and request information and the rights and obligations of *Regulated Persons* with respect to such examinations.

**9102. Examinations**

- (1) An examination under Rule 9100 includes a request for information made by *Corporation* staff other than *Enforcement Staff*.

**9103. Conducting examinations**

- (1) *Corporation* staff may examine the conduct, business and affairs of a *Regulated Person* with respect to *Corporation* requirements, ~~applicable laws~~, or trading or advising in respect of ~~securities, futures contracts~~ or derivatives.
- (2) *Corporation* staff may initiate an examination where they consider it advisable to do so.

**9104. Examination powers**

- (1) In connection with an examination, *Corporation* staff may, by written or electronic request, require a *Regulated Person* or an *employee*, partner, *Director*, officer or *approved investor* to:
  - (i) provide a written report with respect to any matter,
  - (ii) produce for inspection any ~~records and documents~~ in the *person's* possession or control that *Corporation* staff believe ~~may be~~ is relevant to the examination, whether written, electronically stored, or recorded,
  - (iii) provide copies of any such ~~records and documents~~ in the manner and form, including electronically and recorded, that *Corporation* staff requests, and
  - (iv) answer questions with respect to any matter.
- (2) In a request made under subsection 9104(1), *Corporation* staff may require production of original documents and must provide a receipt for any original documents received.
- (3) In connection with an examination, *Corporation* staff:
  - (i) may, with or without prior notice, enter the business premises of any *Regulated Person* during business hours,
  - (ii) are entitled to free access to and to make and keep copies of all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and *records* of every description that *Corporation* staff believe ~~may be~~ is relevant to the examination, including by taking an digital image of the computer hard drives or other storage media of the *Regulated Person's* records, and

Commented [IIAC1]: Consistency with 8103(3)(ii).

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- (iii) may remove the original of any document or *record* obtained under clause 9104(3)(ii), and where an original document or *record* is removed from the premises, *Corporation* staff must provide a receipt for the removed document or *record*.

**9105. Obligations of Regulated Persons and other persons**

- (1) A *person* who receives a request made under section 9104 must ~~comply with~~ respond to the request within the time specified in it.
- (2) A *Regulated Person* must cooperate with *Corporation* staff who are conducting an examination, and a *Regulated Person* must require its employees, partners, directors and officers to cooperate with *Corporation* staff conducting an examination and to comply with a request made under section 9104.
- (3) A *person* who is aware that *Corporation* staff is conducting an examination must not conceal or destroy any *record*, document or thing that contains information that ~~may be~~ is relevant to the examination or ask or encourage any other *person* to do so.

**9106. Use of information**

- (1) *Corporation* staff may refer any information obtained from an examination to *Enforcement Staff*, other *Corporation* staff, or a *securities, futures or derivatives* regulatory authority in Canada.
- ~~(2) *Corporation* staff may take any other appropriate action based on information obtained from an examination.~~

**Commented [IIAC2]:** Memoranda of Understanding should be subject to a public comment process.

**Commented [IIAC3]:** Too broad. Needs parameters.

**9107. – 9199. Reserved.**

## RULE 9500 | ALTERNATIVE DISPUTE RESOLUTION

**9501. Introduction**

- (1) Rule 9500 sets out the requirements relating to a *Dealer Member's* obligation to participate in arbitration programs and ombudsman services approved by the *Corporation*.

**9502. Participation by a Dealer Member in arbitration**

- (1) The *Board* may approve, with terms and conditions, one or more arbitration programs or organizations for *Dealer Members* or any class of *Dealer Members*.
- (2) A *Dealer Member* must participate in or become a member of an arbitration program or organization approved by the *Board*.

~~(3) The participation of a *Dealer Member* in, or any decision made under, an arbitration program will not affect the *Corporation's* authority, or prevent it from exercising that authority under *Corporation requirements*.~~

~~(4)~~(3) If a client requests arbitration, the *Dealer Member* involved must submit to binding arbitration in any dispute between the *Dealer Member* and the client.

~~(5)~~(4) The *Dealer Member* must comply with the arbitration program's requirements and decisions.

**9503. Participation by a Dealer Member in an ombudsman service**

- (1) A *Dealer Member* must participate in an ombudsman service approved by the *Board*.
- (2) The participation of a *Dealer Member* in, or any recommendations made by, an ombudsman service, will not affect the authority of the *Corporation* or prevent it from exercising that authority under *Corporation requirements*.
- (3) On a client's request, any dispute between a *Dealer Member* and the client must be submitted to the approved ombudsman service.
- (4) The eligibility of a dispute for review is made by the ombudsman service based on its terms of reference.
- (5) A *Dealer Member* must comply with the ombudsman service's requirements.
- (6) The ombudsman's recommendations are non-binding on each participant in the service.

**9504. Dealer Members must provide information to ombudsman service**

- (1) The ombudsman service may ask a *Dealer Member*, or an *Approved Person*, or other *person* subject to the *Corporation's* authority for information or *records* relating to a review or investigation.
- (2) The *person* in subsection 9504(1) must submit the information requested in the form and manner, including electronic, as prescribed by the ombudsman service.

~~(3) The ombudsman may not provide the *Corporation* with any information or *records* of its service received relating to a review or investigation, except information relating to a *Corporation investigation or hearing* allegation that:~~

- ~~(i) the *Dealer Member* provided information to the ombudsman service it knew was false and intended to mislead the ombudsman, or~~

**Commented [IIAC1]:** Arbitrator assumes authority in a binding decision.

**Commented [IIAC2]:** This clause should not be deleted. There should not be information sharing between OBSI and CIRO.

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~~(ii) the Dealer Member failed to provide information as required by section 9504.~~

**9505. –9999. Reserved.**



**Appendix 5 – Corporation Membership Disclosure Policy (as required under DC Rule section 2285)**

**CIRO Membership Disclosure Policy**

**1. Introduction**

This policy establishes minimum requirements for disclosure of CIRO Membership pursuant to subsection 2285(1) of the Dealer and Consolidated Rules. The purpose of this Policy is to promote client awareness of the regulatory oversight exercised by CIRO in respect of *Dealer Members* and their *Approved Persons*.

**2. Definitions**

For the purpose of the disclosure requirements described in this policy, the term:

“**CIRO Advisor Report**” refers to CIRO’s searchable database that allows investors to research the background, qualifications, and disciplinary history on advisors and other Approved Persons sponsored by CIRO-regulated Dealer Members by generating an electronic report.

“**CIRO Disclosures**” refers to the CIRO Logo and CIRO Official Brochure, collectively.

“**CIRO Logo**” means the logo prescribed by CIRO, from time to time, for use by Dealer Members.

“**CIRO Official Brochure**” means any publication prescribed by CIRO, from time to time, which explains how CIRO protects investors, and which CIRO authorizes for public distribution.

“**CIRO Website**” refers to [www.ciro.ca](http://www.ciro.ca) (for English) or [ocri.ca](http://ocri.ca) (for French)

**3. Advisor Report**

1. Each Dealer Member that provides products or services to retail clients must include a hyperlink and clearly visible reference to the Advisor Report on the homepage of the Dealer Member's website and on any other Dealer Member webpage that includes a profile of a CIRO regulated investment advisor.
2. Each CIRO regulated investment advisor that provides products or services to retail clients must include a hyperlink and clearly visible reference to the Advisor Report on the homepage of their own website, where applicable.

## **CIRO Logo**

Dealer Members must use the CIRO Logo to satisfy all CIRO membership disclosure requirements set out in this policy. Specifically, a Dealer Member must include the CIRO Logo and a link to the CIRO Website on the Dealer Member's homepage. Where the Dealer Member website or internet presence is part of a combined financial institution group website, the CIRO Logo must be included on Dealer Member's main webpage.

Unless prohibited under section 6 of this policy, use of the CIRO Logo is optional in all other circumstances and available for general use by Dealer Members.

### **4.1 CIRO Logo specifications**

The CIRO Logo must be clearly visible and reproduced directly from the format provided below or as made available on CIRO's website.

Black and White (English and French)



**Regulated by CIRO**  
Canadian Investment  
Regulatory Organization



**Réglémentée par l'OCRI**  
Organisme canadien de réglementation  
des investissements

Colour (English and French)



**Regulated by CIRO**  
Canadian Investment  
Regulatory Organization

**Réglementée par l'OCRI**  
Organisme canadien de réglementation  
des investissements

Additional requirements:

The minimum size for reproduction is 6.35 millimeters (0.25 inches) in height.

A separate black and white version must be used when the document/material is not being reproduced in colour.

#### 4.2 Client Account Statements

Each Dealer Member must include the CIRO Logo **and a link to the CIRO Website** on the front of each account statement that is sent to clients.

#### 5. CIRO Official Brochure

The CIRO Official Brochure is entitled “How CIRO protects investors”. Dealer Members must provide an electronic or hard copy of the current version of the CIRO Official Brochure to:

- new retail clients at the time of account opening, and
- existing retail clients upon request.

A PDF version of the CIRO Official Brochure is available in English and French and is located on the CIRO Website. Dealer Members are responsible for the cost of providing a hard copy of the CIRO Official Brochure to retail clients.

**Commented [IIAC1]:** This can be an option rather than a requirement for firms, addressed in guidance. There is no added value following the rebranding exercise already undertaken, to inserting a link to the CIRO site, given that firms already disclose their CIRO membership.

**Commented [IIAC2]:** Recommend the standard be that the CIRO brochure be provided by Dealer Members by link or hard copy upon client request.

If required, a hard copy of the CIRO Official Brochure is available in French and English and can only be ordered directly from CIRO.

## **6. Prohibitions**

CIRO may direct a Dealer Member to cease using the CIRO Disclosures in the following circumstances:

1. if CIRO decides that its use is detrimental to the public's interests or the interests of CIRO or its Dealer Members; and
2. upon suspension of its membership.

A Dealer Member is prohibited from using the CIRO Disclosures in any of the following circumstances:

1. where use of the CIRO Disclosures approves, endorses or guarantees a Dealer Member service or an investment product,
2. where use of the CIRO Disclosures is false or could reasonably be expected to deceive or mislead any person;
3. upon the termination of its membership, and
4. in connection with a subject matter or activity that is not regulated by CIRO.

Upon request by CIRO, a Dealer Member must provide samples of any materials that use or make reference to the CIRO Disclosures.

## **7. CIRO Contact**

If you have any questions regarding the use of CIRO Disclosures, please contact Corporate communications and Public Affairs at [publicaffairs@ciro.ca](mailto:publicaffairs@ciro.ca) or Member Regulation Policy at [memberpolicymailbox@ciro.ca](mailto:memberpolicymailbox@ciro.ca).