



INVESTMENT DEALERS ASSOCIATION OF CANADA
ASSOCIATION CANADIENNE DES COURTIERS EN VALEURS MOBILIÈRES



Canadian Investor Protection Fund
Fonds canadien de protection des
épargnants

Sponsored by Bourse de Montréal Inc., Investment
Dealers Association of Canada and TSX Group of
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February 26, 2008

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Dear Sirs/Mesdames:

**Re: Alignment of Regulatory Relationship between
the Investment Dealers Association of Canada and
Canadian Investor Protection Fund**

This letter constitutes the joint application ("Application") of the Investment Dealers Association of Canada / Association canadienne des courtiers en valeurs mobilières (the "IDA") and Canadian Investor Protection Fund / Fonds canadien de protection des épargnants ("CIPF") to each of the securities commissions addressed above (collectively, the "Commissions" and each a "Commission") for the variation orders and approvals, as the case may be, described below in connection with the realignment of the respective regulatory responsibilities and roles of the IDA and CIPF, and consequential amendments to the current oversight arrangements that each of the IDA and CIPF has with the relevant Commissions (the "Realignment").

ORDERS AND APPROVALS SOUGHT

Required

In order to effect the Realignment the following orders and/or approvals, as the case may be, will be required:

In respect of CIPF:

1. Approval to amend and restate the Memorandum of Understanding dated various dates in 2002 between CIPF and each of the Commissions (and by separate Memorandum of Understanding with the Quebec Securities Commission dated October 16, 2002) (together, the "CIPF MOU"); and
2. Variation of orders/approvals by the relevant Commissions approving or designating CIPF as a protection plan for customers of investment dealers pursuant to the applicable legislation (the "CIPF Approval Orders").

The specific legislative authority for each Commission in respect of the subject of this Application (including the relevant securities or commodity futures legislation) and identification of particulars of the IDA Oversight Agreement, CIPF MOU and CIPF Approval Orders are set out in Schedule A to this Application.

In respect of the IDA, approval to enact new IDA By-law 41 and amend By-law 21 and Form 1 to implement aspects of the Realignment will be required. Application for such approval has been made pursuant to the current IDA Joint Rule Protocol which is part of the IDA Oversight Agreement.

The Applicants are of the view that no immediate amendments or variations are required in respect of the orders/approvals by the relevant Commissions recognizing the IDA as a self-regulatory organization pursuant to the applicable legislation (together the "IDA Recognition Orders"). Such Orders refer to CIPF's oversight role but the Orders are permissive with respect to CIPF's authority and specifically contemplate that such role may be performed by the Commissions as contemplated by this Application.

The Application

This Application contemplates the fact that the IDA and Market Regulation Services, Inc. ("RS") have applied to the Commissions for approval of the combination of the member and market regulatory functions of the IDA and RS, respectively, into a single, new self-regulatory organization ("New Regco"). This Application is intended to be considered and, if acceptable, the orders/approvals granted separately from the application with respect to New Regco. If and when New Regco is approved by the Commissions and is effected as proposed, it would be expected that the arrangements proposed in this Application between the IDA and CIPF would continue as between New Regco and CIPF. Appropriate amendments to the relevant orders, approvals, by-laws and agreements contemplated by this Application will be sought and/or made to substitute, in effect, New Regco for the IDA.

SUMMARY

This Application seeks the approval of the Commissions for the Realignment of the regulatory responsibilities and roles of the IDA and CIPF such that CIPF no longer performs an oversight function in respect of the IDA as currently it is the only self-regulatory organization in Canada for investment dealers. The specific substantive changes contemplated by this Application are:

For the IDA:

- elimination of financial compliance oversight reporting to, and review by, CIPF which will be replaced by direct reporting by the IDA to the Commissions
- elimination of requirement to comply with CIPF minimum standards
- acceptance of CIPF assessments according to CIPF's adopted risk models, subject to certain aggregate limits and regulatory oversight
- right to recommend to CIPF's nominating committee an industry director for CIPF's board of directors (Governors)
- by-law amendments to bind IDA members to CIPF assessments and intervention authority in the event of potential losses being incurred

For CIPF:

- elimination of oversight responsibility with respect to IDA member regulation, except in the event of potential customer losses being incurred
- elimination of IDA member field examinations
- elimination of authority to set minimum standards
- primary functions to be risk management, administration of member insolvencies and payment of customer losses
- ability to determine assessments (risk differential assessments were recently adopted with notice to the Commissions) according to risk models adopted by CIPF, subject to certain aggregate limits and regulatory oversight
- reduction of size of board of directors from 12 to 8-10 to reflect its revised responsibilities

The foregoing substantive changes (and several lesser, incidental changes) in respect of each of the IDA and CIPF are proposed to be effected by or reflected in the draft documents filed in support of this Application. No other substantive changes are intended or expected as a result of the Realignment and, in particular, there will be no change to CIPF customer protection coverage.

DOCUMENTS FILED IN SUPPORT OF APPLICATION

The following documents are or have previously been filed with this Application in support of the orders/approvals sought:

- (a) draft revised Industry Agreement between CIPF and the IDA to replace the current Industry Agreement (including a marked version to identify the changes);
- (b) draft Termination Agreement in respect of the current Industry Agreement for The Toronto Stock Exchange and Bourse de Montréal Inc.;

- (c) draft revised CIPF By-law No. 1 (including a marked version to identify the changes to the current By-law);
- (d) study of the Canadian Securities Industry Regulatory Framework prepared by the IDA and endorsed by its Board at its September 2005 meeting and previously filed with the Commissions in 2005 (the "Regulatory Framework Study");
- (e) for information but not the subject of this Application, the request for approval and submission of the IDA to the Commissions pursuant to the Joint Rule Protocol in respect of draft IDA By-law 41 and draft amendments to IDA By-law 21 and Form 1, all previously filed with the Commissions in October 2006.

A revised CIPF MOU, approval / variation order of the Commissions will be required.

DISCUSSION

Background

The Study of the Canadian Securities Industry Regulatory Framework ("Regulatory Framework Study ") published by the IDA (and previously filed with each of the Commissions) explains comprehensively and with supporting documentation the rationale for the proposed Realignment. Reference should be made to the Regulatory Framework Study for detailed background information in respect of this Application.

The predecessor of CIPF, the National Contingency Fund ("NCF"), was established in 1969 as a compensation fund for the customers of insolvent members of the Toronto, Montreal, Canadian and Vancouver Stock Exchanges as well as of the IDA and other organizations joined over time including The Alberta Stock Exchange. At that time the primary role of the NCF was to compensate customers in the event of member insolvency and also to play a role in the administration of insolvent members on behalf of the securities industry as represented by the stock exchanges and the IDA. Over the years since its establishment in 1969, CIPF developed a regulatory role including the ability to prescribe to its sponsoring institutions minimum standards (relating to capital adequacy, books and records, internal control, insurance, securities segregation, audit and financial reporting and other prudential requirements) as well as an

oversight role with respect to the sponsoring institutions. In practice and by agreement, CIPF was relied on by the Commissions to oversee the sponsoring institutions in respect of their prudential regulation of their respective members.

In 1990, the NCF was substantially reorganized as CIPF as a result of a significant member failure and customer losses that the NCF had been required to pay for. At that time there were multiple sponsoring institutions of CIPF and a perception that there remained serious potential risk of loss to customers unless strong and uniform prudential regulations were in place and enforced. Accordingly, the role of CIPF as an oversight regulatory authority in respect of the prudential regulation of the members of its sponsoring institutions was enhanced at that time. In addition, since 1990 as securities markets have expanded, become more volatile, introduced more complicated and risky products and become subject to global influences, the regulatory oversight role of CIPF and the regulation of member firms in accordance with minimum standards has also been strengthened from time to time. It is to be noted that the arrangements as between CIPF and the sponsoring institutions over which it has had oversight responsibility has been primarily a co-operative exercise in that CIPF and representatives of the sponsoring institutions such as the IDA and their members work closely by committee and otherwise in reviewing market developments and existing rules, and developing new rules.

The IDA was one of the original sponsoring institutions of the NCF and, along with the other stock exchanges, participated in the regulation of investment and securities dealers who were members of sponsoring institutions in a manner co-ordinated in part by the Commissions and in part through the oversight of CIPF. However, in recent years at least two important changes have occurred. First, the IDA has developed into a sophisticated member self-regulatory organization ("SRO") with strong resources and expertise across Canada. This development occurred for a number of reasons including the occasion of the formal recognition of the IDA in most provinces of Canada under detailed term and conditions as well as through the acknowledgement by the industry itself that enhanced member regulation was required in the public interest. These considerations are reflected in the terms and requirements of the existing IDA Oversight Agreement with the Commissions. The second development relates to the fact that the member regulation function in the Canadian securities industry has been consolidated since the late 1990s to the point where the IDA is the only self-regulatory organization for

investment and securities dealers. The fact that there are no longer multiple self-regulatory organizations reduces the need for at least one of CIPF's current functions, being the coordination of regulatory requirements through uniform minimum standards applicable to all SROs and stock exchanges.

In addition to the developments relating to both the IDA and CIPF described above with respect to the regulation of the Canadian securities industry, there has been general recognition in most industrialized countries around the world that more rigorous and effective regulation in the financial services industry at large has been required. The result has been the enactment of laws and regulations representing materially tougher and more onerous obligations on participants in the financial services industry including Canadian investment and securities dealers who are members of the IDA. While appropriate protections to the public and all participants in capital markets can be justified, there is a concurrent obligation to ensure that the regulatory system is as efficient as possible and unnecessary costs, duplication and anachronisms should be eliminated. The IDA and CIPF have both agreed that the proposed Realignment that is the subject of this Application will enhance the efficiency and effectiveness of the regulation of Canadian investment and securities dealers in part by eliminating identified duplication of function, cost burden and anachronisms.

The growing complexity and globalization of financial markets and the financial services industry in Canada and elsewhere in the world has also emphasized the need for regulatory specialization and sophistication. Under the proposed Realignment of the IDA and CIPF, the IDA would focus on its core function of member regulation and CIPF would focus on risk management and the administration of member insolvencies if and when they occur. Both of these specialized functions would be subject to the oversight of the Commissions as at present with the exception that CIPF would no longer have an oversight regulatory role with respect to the IDA.

Principal Amended Documents

The proposed Realignment described in this Application is to be effected by amendments to the principal documents governing the respective roles of CIPF and the IDA as set out below:

1. **Industry Agreement.** The existing Industry Agreement dated December 14, 2001 which became effective on January 1, 2002 and made between the IDA, The Toronto Stock Exchange (the "TSE"), Canadian Venture Exchange Inc. ("CDNX"), Bourse de Montréal Inc. ("Bourse") and CIPF will be amended in the form previously filed with the Commissions. The only continuing parties to the Industry Agreement will be the IDA and CIPF. The TSE, CDNX and Bourse have agreed to cease to be parties or to have rights under the Industry Agreement. As the only current SRO, the IDA will be entitled to recommend to the CIPF Governance and Nominating Committee a director but the appointment shall be determined by CIPF. The basis on which CIPF assessments will be made is clarified including the key principle that the directors of CIPF will adopt a formula or methodology which may reflect risks relating to various classes or groups of members and calculated in any manner that the directors consider relevant in addressing the identified risks. The responsibility for levying the assessments and collecting them would all be with the IDA (or any future SRO that may become a party to the Agreement). It is specifically acknowledged that the IDA's current adopted risk model will be made available to CIPF and no change will be made in such risk model without first providing CIPF not less than 120 days notice. The ability of CIPF to establish minimum standards will be eliminated in recognition that the IDA will enact its own rules relating to the business and financial strength of its members in order to minimize the risk of insolvency. The Industry Agreement will provide that no changes will be made to such rules without appropriate notice to CIPF and the opportunity of CIPF to comment on such changes. CIPF also has the right when it considers necessary to advise an SRO as to any new rules or amendments that may be appropriate to be considered in the view of CIPF. The IDA will have a contractual obligation to CIPF to enforce the adopted rules against its members. It will remain an obligation of the IDA to provide prompt notice to CIPF of any circumstance where loss may be incurred (defined as a Reportable Condition). The reporting requirements as between the IDA and CIPF have been clarified. In addition to the right to reports, CIPF may review the business and operations of a member where a situation has occurred which may constitute a Reportable Condition. The IDA and CIPF will co-operate in such circumstances. As part of general co-operation between the IDA and CIPF, the Industry Agreement provides that representatives of the respective boards of both CIPF and the IDA shall meet at least once a year to report on and discuss such matters as

are of current interest or concern. In addition, a dispute resolution provision has been included in the Agreement.

As a schedule to the Industry Agreement, it is proposed that an information sharing agreement be entered into that will provide for the specific rights and obligations of the parties with respect to shared information including privacy concerns.

2. **CIPF MOU.** Approval is sought for the amendment and restatement of the CIPF MOU. Apart from certain updating to reflect changes in CIPF's governance and constitution, the substantive changes proposed for the CIPF MOU are amendments to CIPF's quarterly reporting obligations to the Commissions, the elimination of the requirement to maintain minimum standards, the elimination of member examination and other oversight obligations and the elimination of current automatic reporting and reporting with respect to routine member regulation matters.

3. **CIPF By-laws.** As a result of the realigned role of the IDA with respect to CIPF, as well as a concurrent corporate governance review conducted by CIPF, certain amendments are proposed with respect to CIPF's By-laws relating to the internal governance of CIPF and its administration. Incidental aspects of the Realignment such as the reduction in the size of the CIPF board will be implemented in any event.

SUBMISSIONS

The IDA and CIPF have carefully considered the proposed Realignment of their respective regulatory responsibilities and roles and have negotiated the terms reflected in the documentation submitted in support of this Application including the revised Industry Agreement, CIPF By-law and CIPF MOU. In addition, the respective boards of directors/governors of both the IDA and CIPF have considered and approved the proposed amendments as being in the public interest and consistent with the regulatory roles and responsibilities of the respective organizations. As explained in the section above Discussion, Background, the Canadian and worldwide financial services industry has evolved rapidly in the past decade and more and the proposed changes are designed to enhance the efficiency and effectiveness of member regulation by the IDA and customer protection by CIPF, both under the oversight of the Commissions. Therefore, it is

submitted that the orders and approvals requested by this Application be granted as being in the public interest.

The foregoing is respectfully submitted jointly by the IDA and CIPF and we will be pleased to discuss any aspects of this Application with the Commissions and their staff and provide additional information requested. Any such questions or requests may be directed to Louis Piergeti, Vice-President, Financial Compliance (416 865-3026) at the IDA and/or Rozanne Reszel, President and Chief Executive Officer (416 643-7105) at CIPF and you are further authorized to discuss any aspects of this Application with Bob Hutchison at Borden Ladner Gervais LLP (416 367 6212).

Yours very truly,

**INVESTMENT DEALERS ASSOCIATION
OF CANADA**

Per: "S. Wolburgh Jenah"
Susan Wolburgh Jenah
President and Chief Executive Officer

**CANADIAN INVESTOR PROTECTION
FUND**

Per: "R. Reszel"
Rozanne Reszel
President and Chief Executive Officer

cc: Barbara Fydell, Ontario Securities Commission

SCHEDULE A

Province or Territory	Legislative Reference
Alberta	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 64(1) <i>Securities Act</i> (recognition of SROs) • s. 64(6) <i>Securities Act</i> (power to make decision respecting procedures of an SRO) <p>Power to vary decisions:</p> <ul style="list-style-type: none"> • s. 64(3)(b) <i>Securities Act</i> (power to vary terms or conditions respecting an SRO) • s. 214(1) <i>Securities Act</i> (general power to revoke or vary decisions)
British Columbia	<p>Approved Contingency Fund</p> <ul style="list-style-type: none"> • s. 23(1) of the Securities Rules <p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 24(a) <i>Securities Act</i> (recognition of SROs) • s. 27(1)(b) <i>Securities Act</i> (power to make decision respecting procedures of an SRO) <p>Power to vary decisions:</p> <ul style="list-style-type: none"> • s. 171 <i>Securities Act</i>
Manitoba	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 31.1(1) <i>The Securities Act</i> (recognition of SROs) • s. 31.1(4) <i>The Securities Act</i> (power to make decision respecting procedures of an SRO) <p>Power to vary decisions</p> <ul style="list-style-type: none"> • s. 30(7) <i>The Securities Act</i> (power to make new order on material change in circumstances)
New Brunswick	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 35(1)(b) <i>Securities Act</i> (recognition of SROs) • s. 39(e) <i>Securities Act</i> (power to make decisions respecting procedures of an SRO) <p>Power to vary decisions</p> <ul style="list-style-type: none"> • s. 206(1) <i>Securities Act</i>
Newfoundland and Labrador	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 25(1) <i>Securities Act</i> (recognition of SROs) • s. 25(4) (power to make decisions respecting procedures of an SRO)
Northwest Territories	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 43.1 <i>Securities Act</i> (exemption order)
Nova Scotia	<p>Approved Contingency Fund</p> <ul style="list-style-type: none"> • s. 27 of the Securities Regulations <p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 30(1) <i>Securities Act</i> (recognition of SROs) • s. 151A(1)(a) <i>Securities Act</i> (power to exempt categories)

	<p>of persons)</p> <p>Power to vary decisions</p> <ul style="list-style-type: none"> • s. 151 <i>Securities Act</i> (power to vary decisions)
Nunavut Territory	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 43.1 <i>Securities Act</i> (exemption order) <p>Approval of Contingency Fund</p> <ul style="list-style-type: none"> • s. 110 of Regulation 1015
Ontario	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 21.1(1) <i>Securities Act</i> (recognition of SROs) • s. 21.1(4) <i>Securities Act</i> (power to make decisions respecting procedures of an SRO) <p>Power to vary decisions</p> <ul style="list-style-type: none"> • s. 21.7(1) <i>Securities Act</i> (power to vary decisions respecting an SRO) • s. 144(1) <i>Securities Act</i> (power to vary decisions)
Prince Edward Island	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 40(1)(b) <i>Securities Act</i> (power to exempt categories of persons) <p>Power to vary decisions</p> <ul style="list-style-type: none"> • s. 31 <i>Securities Act</i> (power to vary decisions)
Québec	<p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 170 <i>Securities Act</i>
Saskatchewan	<p>Approved Contingency Fund</p> <ul style="list-style-type: none"> • s. 23(1)(a) of the Securities Regulation <p>Recognition of SROs</p> <ul style="list-style-type: none"> • s. 21(2) <i>Securities Act, 1988</i> <p>Power to vary decisions</p> <ul style="list-style-type: none"> • s. 158(3) <i>Securities Act, 1988</i> (power of Commission to vary decisions of Commission)
Yukon Territory	<p>Application procedure</p> <ul style="list-style-type: none"> • s. 37 <i>Securities Act</i>

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