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Investment Industry Regulatory Organization of Canada

Organisme canadien de réglementation du commerce des valeurs mobilières

DEALER MEMBER DISCIPLINARY SANCTION GUIDELINES

September 2014

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DEFINITIONS

In these Guidelines:

“Corporation” means the Investment Industry Regulatory Organization of Canada.

"Dealer Member Rules" means the Dealer Member Rules adopted pursuant to Transition Rule No. 1.2.2 of the Corporation.

"Enforcement Proceeding" means a disciplinary hearing, a settlement hearing, and an expedited hearing under UMIR and Rule 20.30, Rule 20.33, Rule 20.34, Rule 20.42, and Rule 20.43 of the Dealer Member Rules, and includes any procedural applications or motions in relation to these proceedings.

"Industry Member" means an individual who is:

(i) a current or former director, officer, partner or employee of a Member or Access Person;
(ii) a current or former director, officer, partner or employee of a former Member or former Access Person; or
(iii) any other individual that is suitable and qualified, in accordance with the factors enumerated in Subsection 1.3(1) of Schedule C.1 to Transition Rule No. 1.

"National Hearing Coordinator" means the secretary of the Corporation or such other officer, employee or agent of the Corporation designated in writing from time to time by the secretary to perform the functions assigned to the National Hearing Coordinator under the Rules of the Corporation or by the Board of Directors.

"**Public Member"** means an individual who is a current or retired member of the Law Society of any Canadian province and is in good standing at the Law Society, except in Quebec, where the individual shall be a current or retired member of the Law Society of Quebec who is in good standing.

"Review Proceeding" means an approval application review proceeding, an early warning level 2 review proceeding, and an expedited hearing review under Rule 20.19, Rule 20.29, and Rule 20.47 of the Dealer Member Rules, and includes any procedural applications or motions in relation to these proceedings.

"UMIR" means the provisions of the Universal Market Integrity Rules adopted pursuant to Transition Rule No. 1.1.2 of the Corporation.

Terms used in these Guidelines which are not defined herein shall have the same meanings as used or defined in whichever of the Dealer Member Rules or UMIR is applicable to such hearing or proceeding. In the case of any inconsistency between terms used or defined in this Hearing Committees and Hearing Panels Rule and terms used or defined in the Dealer Member Rules or UMIR, the meanings of such terms as used or defined in this Hearing Committees and Hearing Panels Rule shall prevail.

INTRODUCTION

The securities industry is a business of trust and confidence. As the industry's national self-regulatory organization, the Investment Industry Regulatory Organization of Canada regulates the activities of its Dealer Member firms and the approved persons employed by those Dealer Member firms in terms of their capital adequacy and conduct of business. To qualify as a Dealer Member firm, an organization must meet stringent capital requirements and demonstrate an ability and willingness to conduct its business in a manner consistent with the Securities Act(s) of the province or provinces in which registration is held, and adhere to the Corporation's Dealer Member Rules. Approved persons share analogous responsibilities, and must above all conduct themselves with trustworthiness and integrity, and act in an honest and fair manner in all their dealings with the public, their clients, and the securities industry as a whole.

Dealer Member Rule 20 ("Hearing Processes") provides that a Hearing Panel has the power to impose specified penalties where it has been found that an individual registrant or a Dealer Member firm fails to comply with the Dealer Member Rules Rules. A Hearing Panel also may impose penalties where a registrant has failed to comply with applicable securities regulations or engages in any business conduct or practice which such Hearing Panel in its discretion considers unbecoming a Dealer Member or not in the public interest. Pursuant to sections 20.33 and 20.34 of the Dealer Member Rules, a Hearing Panel is authorized to impose sanctions that may include any one or a combination of:

(i) a reprimand;

(ii) a fine up to $1,000,000 for Approved Persons and $5,000,00 for Dealer Members per offence or an amount equal to three times the pecuniary benefit obtained as a result of any contravention, whichever is greater;

(iii) suspension of a Dealer Member's rights and privileges or of an Approved Person's approval to act as a partner, director, officer or employee of a Dealer Member, possibly on terms;

(iv) termination of a Dealer Member's membership and the accompanying rights and privileges or revocation of an Approved Person's approval;

(v) expulsion of a Dealer Member from the Corporation or prohibition of an Approved Person's approval for any period of time; and

(vi) imposition of terms and conditions on a Dealer Member or conditions on a subsequent approval or continued approval of an Approved Person, as the Hearing Panel considers appropriate in the circumstances.

As sections 20.33 and 20.34 provide no guidance on the imposition of the penalties it authorizes, the penalty is left to the discretion of the Hearing Panel to be determined in light of the circumstances of each case.

In making their determinations as to penalty, in the past, Hearing Panels have looked to sources that reflect industry understandings and expectations. These sources have included *The Toronto Stock Exchange's Penalty Guidelines for Disciplinary Proceedings* (November 5, 1996) (the "TSE Guidelines") [superseded by the *Market Regulation Services Inc. Sanction Guidelines for RS Disciplinary Proceedings*- August 2002] and the *NASD Sanction Guidelines* (2001).

Although the TSE and NASD Guidelines are not binding on the Hearing Panel, they have been cited with approval. In its decision in *Re Milewski*, [1999] I.D.A.C.D. No. 17, the Hearing Panel held it reasonable to treat such guidelines as indicative of industry expectations and as relevant to a penalty determination, although neither exhaustive nor determinative.

To this end, Staff has compiled a set of General Principles and Guidelines that may be taken into account when determining the appropriate sanction to be imposed as part of a Settlement Agreement, or at the end of a disciplinary proceeding commenced pursuant to Dealer Member Rule 20.

N.B. The list of guidelines for imposing sanctions for specific offences that follow the General Principles is not exhaustive, but rather comprises a list of offences that have been encountered and sanctioned in the past by the Corporation's discipline panels and/or other securities regulators.

GENERAL PRINCIPLES

The following principles and rules are proposed to provide a framework for assessing the gravity of a particular breach of the Dealer Member Rules, and help to determine which sanction(s) is reasonable in the circumstances.

1. Main Concerns When Determining An Appropriate Penalty

As set out in *Re Derivative Services Inc*., [2000] I.D.A.C.D. No.26, at page 3, a Hearing Panel's main concerns in determining an appropriate penalty are:

1. Protection of the investing public;
2. Protection of the Investment Industry Regulatory Organization's membership;
3. Protection of the integrity of the Investment Industry Regulatory Organization's process;
4. Protection of the integrity of the securities markets, and
5. Prevention of a repetition of conduct of the type under consideration.

The penalty imposed in a specific proceeding should reflect the Hearing Panel's assessment of the measures necessary in the specific case to accomplish these goals, ranging from a reprimand to an absolute bar, and may take into account the seriousness of the respondent's conduct and specific and general deterrence.

2. Disciplinary Sanctions As Deterrence

Registrants and Dealer Member firms have significant responsibilities that they must meet if investors are to be protected and market integrity maintained. Registrants who choose to act in ways that threaten the integrity of the capital markets must have the expectation that they will be held accountable through enforcement action by regulators. Sanctions should be based on the circumstances of the particular misconduct by a respondent with an aim at general deterrence.

General deterrence will follow from an appropriate decision and deter others from engaging in similar misconduct and improve overall business standards in the securities industry. This can be achieved if a sanction strikes an appropriate balance by addressing a registrant's specific misconduct, but also being in line with industry expectations. As was observed by the Hearing Panel in *Re Mills*, [2001] I.D.A.C.D. No. 7, April 17, 2001, at p. 3:

> *Industry expectations and understandings are particularly relevant to general deterrence. If a penalty is less than industry understandings would lead its Members to expect for the conduct under consideration, it may undermine the goals of the Association's disciplinary process; similarly, excessive penalties may reduce respect for the process and concomitantly diminish its deterrent effect. Thus the responsibility of the District Council in a penalty hearing is to determine a penalty appropriate to the conduct and respondent before it, reflecting that its primary purpose is prevention rather than punishment.*

However, an important objective of the disciplinary process is to deter future misconduct by imposing progressively escalating sanctions on "repeat offenders". For this reason, when appropriate, a Hearing Panel should consider a respondent's relevant disciplinary history in determining sanctions. Relevant disciplinary history may include (a) past misconduct similar to that at issue; or (b) past misconduct that, while unrelated to the misconduct at issue, evidences prior disregard for regulatory requirements, investor protection, or commercial integrity. Even if

a respondent has no history of relevant misconduct, however, the misconduct at issue may be so serious as to justify a higher penalty.

3. Key Considerations When Determining Sanctions

The following list of factors should be considered in conjunction with the imposition of sanctions. Individual guidelines may list additional factors. This list is illustrative, not exhaustive, and the Hearing Panel should consider case-specific factors in addition to those listed here and in the guidelines. Since sanctions should be tailored to address the misconduct involved in a particular case, a penalty must be proportionate to the gravity of the misconduct and the relative degree of responsibility of a respondent. To properly assess the gravity of specific misconduct, the decision-maker should look to a number of factors, including , but not restricted to the following:

3.1 Harm To Clients, Employer and/or the Securities Market

Actual harm can sometimes be quantified by considering the type of transactions, the number of transactions, the size of the transactions, the number of clients affected by the misconduct, the length of time over which the misconduct took place, and the size of the loss suffered by the client(s) or the Dealer Member firm. Harm can also be measured using less empirical, but more subjective factors, such as the impact of a specific misconduct on a client's life (from an emotional, physical and/or mental perspective), or the impact on the reputation of the Dealer Member firm, or the reputation of the Canadian securities industry as a whole.

3.2 Blameworthiness

In appropriate cases, distinctions should be drawn between conduct that was unintentional or negligent, and conduct that involves manipulative, fraudulent or deceptive conduct. Distinctions should also be drawn between isolated incidents and repeated, pervasive, or systemic contraventions of the Dealer Member Rules.

It may also be appropriate to take into account the effect that illness or other extenuating circumstances of a personal nature may have on a registrant's relative blameworthiness.

3.3 Degree of Participation

As a general rule, there ought to be a distinction between the sanctions imposed on direct perpetrators and those with a lesser level of complicity. A Hearing Panel, when sanctioning multiple respondents, should take an individualized approach by determining, acknowledging, and taking into account the relationship of the particular respondent to the misconduct and other participating offenders. This is a large part of what is meant by "degree of responsibility". Any form of diminished or impaired responsibility should also be taken into account to mitigate blameworthiness.

3.4 Extent to which the Respondent was Enriched by the Misconduct

In cases where the registrant benefited financially from the misconduct in question, it may be appropriate to require that any profits, commissions, fees, or any other compensation earned be disgorged.

3.5 Prior Disciplinary Record

The fact that a respondent has no prior disciplinary record should, in the absence of evidence to the contrary, lead a panel to a presumption that the respondent was of good moral character prior to the misconduct. A first conviction may be seen as a measure of punishment in and of itself, given the attendant stigma attached to the process of charging, finding of guilt, and imposition of sanction.

A good employment or internal discipline record should be a mitigating factor because it demonstrates responsibility and conformity to professional norms, which are the antithesis of the misconduct.

However, in certain cases it may be that the misconduct at issue is so serious / egregious as to nullify the mitigating effect of the respondent having no prior disciplinary history (or at least no relevant disciplinary history).

A prior disciplinary history may highlight a concern about individual or specific deterrence, an important objective of the disciplinary process, and the need to impose progressively escalating sanctions on repeat offenders.

It is important for the Hearing Panel to compare past misconduct with the misconduct at issue before determining whether there is any relevance. However, It is also important for the Hearing Panel to consider past misconduct that, while unrelated to the misconduct at issue, nevertheless offers evidence of prior disregard for regulatory requirements, investor protection or market integrity.

3.6 Acceptance Of Responsibilities, Acknowledgement Of Misconduct and Remorse

An admission of wrongdoing by a respondent is usually considered to be a mitigating factor because it implies remorse and an acknowledgement of responsibility. The extent of the mitigating value is affected by timing: the earlier, the better. Remorse can be indicated even after a hearing, although its value may be diminished.

3.7 Credit For Cooperation

Since Dealer Member regulation is dependent in large part upon the adherence to internal controls and compliance regimes, full cooperation with the Corporation's investigations by registrants is expected. However, respondents or potential respondents should be given credit for cooperation if they act in a reasonable manner during the course of investigation and disciplinary process by self-reporting and self-correcting the misconduct in question.

Examples of conduct that warrant cooperation credit include:

- self- identification of a breach of the Dealer Member Rules;
- the internal investigation and/or report to the Corporation of all activities that may impact investor confidence or the integrity of the securities industry;
- full and timely cooperation with the Corporation when asked to provide assistance or information in the course of an investigation, including the voluntary production of all necessary books, reports and records required to assess the matter;

- ensure that all relevant personnel are available for interviews to allow the Corporation to fully investigate any and all potential regulatory misconduct.

3.8 Voluntary Rehabilitative Efforts

Remediation efforts prior to (or even subsequent to) detection or intervention by the Corporation should be taken into consideration as mitigating the seriousness of misconduct.

There will no doubt be concerns that subsequent rehabilitative efforts are self- serving, but they warrant credit because they show both recognition of the misconduct and a commitment to remedy it.

The respondent is entitled to mitigating credit for voluntary acts of reparation, including voluntary disgorgement of commissions, profits, other benefits and/ or payment of restitution to clients.

Other rehabilitative or remedial actions that can be taken into account include:

(i) Whether a Dealer Member firm voluntarily employed subsequent corrective measures, prior to detection or intervention by the Corporation, to revise general and/or specific procedures to avoid recurrence of misconduct.

(ii) Whether an individual respondent is/was disciplined by their Dealer Member firm for the misconduct at issue prior to regulatory detection.

3.9 Reliance on the Expertise of Others

In general, it is expected that registrants will use proper care and exercise independent professional judgment at all times in the course of their business activities. However, there may be times when an Approved Person's relative culpability may be tempered by his/her reliance on the expertise of others. Hence, the following may be seen as mitigating factors:

(i) whether, at the time of the contravention, the registrant's Dealer Member firm had developed adequate training and educational initiatives; or

(ii) whether a respondent demonstrated reasonable reliance on supervisory, legal or accounting advice that subsequent to the misconduct in question was found to have been erroneous.

3.10 Planning and Organization

Evidence of planning and pre-meditation are aggravating factors. Hearing Panels should consider the degree of organization and planning, associated with the misconduct, along with the number, size and character of the transactions. Evidence of calculated and deliberate acts may foreclose a claim of rash action or temporary lapse of judgment. Other factors that may come into play include:

(i) Whether the respondent attempted to conceal his or her misconduct or to lull into inactivity, mislead, deceive, or intimidate a client, regulatory authorities, or, in the

case of an individual respondent, the Dealer Member firm with which he or she is/was associated.

(ii) Whether the respondent engaged in the misconduct at issue notwithstanding prior warnings from the Corporation, another regulator, or a supervisor (in the case of an individual respondent) that the conduct violated Dealer Member Rules or applicable federal or provincial statute relating to the trading or advising in respect of securities or commodities or of any regulation or policy made pursuant thereto.

3.11 Multiple Incidents Of Misconduct Over An Extended Period Of Time

Generally, blameworthiness is compounded as the number of incidents expands. This rationale applies to all types of misconduct: a series of victims indicates a pattern, which compounds the culpability.

3.12 Vulnerability of Victim

The disciplinary process must be seen to provide some degree of protection for the investing public, and in particular, the client with a lower level of sophistication. Consequently, the vulnerability of a victim should be taken into account in determining relative culpability, and hence the relative measure of the sanction imposed. However, if there is evidence that the respondent sought out "vulnerable" clients, then this should be seen as an aggravating factor worthy of a greater sanction.

3.13 Failure to Cooperate with the Investigation

Failure to cooperate with the Corporation's investigation into a Registrant's conduct can form the grounds for a separate disciplinary offence, under Dealer Member Rule 19.5. However, if the primary misconduct being investigated can be proven without the cooperation of the registrant, a failure to cooperate can be taken into account as an aggravating factor, or as evidence of a registrant's resistance to governance that may escalate the sanction from a fine to a suspension or permanent ban from membership.

3.14 Significant Economic Loss to the Client and/or Dealer Member Firm

A finding of a significant monetary loss by the respondent's clients or the Dealer Member firm arising out of the respondent's misconduct can be seen as an aggravating factor to the extent that investing has at its core capital preservation and returns. If that core function is significantly eroded by regulatory misconduct, then it should be taken into account when the appropriate penalty is imposed.

4. Use of Sanctions

As set out above, sanctions should be remedial in nature and "fit" the misconduct. Sanctions should effectively address the conduct in question in such a way as to discourage and prevent future misconduct by the respondent, and at the same time, promote general adherence to industry rules and standards.

4.1 Fines

It is generally accepted that monetary fines serve to express general condemnation of specific misconduct. Fines will generally increase in relation to the relative severity of specific misconduct. Severity is measured in relation to all of the factors set out above.

~~**4.1.1 Deductibility Of Fines**~~

~~As a result of the Supreme Court of Canada's decision in *65302 British Columbia Ltd. v. Canada*, [1999] 3 S.C.R. 804, fines imposed by a self-regulatory organization on its Members and their approved persons may be deductible as business expenses for income purposes. As this may undermine a fine's intended effects, Hearing Panel could consider income tax deductibility in determining the appropriate amount of the fine.~~

This section is no longer applicable.

4.1.2 Credit for Internal Sanctions

In imposing sanctions, a credit should be accorded for any fine or suspension that may have been imposed upon a respondent by his/her own Dealer Member firm arising out of internal disciplinary action.

4.1.3 Disgorgement

At present, Dealer Member Rules specifically restrict the levy of a fine to a maximum of $1,000,000 per contravention for Approved Persons and $5,000,000 for Dealer Members. As well, a Hearing Panel may require a respondent to pay an amount equal to three times the profit made or the loss avoided by the respondent as a result of the commission of the contravention in question, including any commissions earned, or other benefits obtained from the impugned transactions. However, disgorgement is a sanction – it is not restitution.

4.2 Suspension Of Corporation Membership or Approved Person Status

4.2.1 Suspension

A suspension may be appropriate where:

- there have been numerous serious transgressions;
- there has been a pattern of misconduct;
- the respondent has a disciplinary history,
- the misconduct has an element of criminal or quasi-criminal activity; or
- the misconduct in question has caused some measure of harm to the integrity of the securities industry as a whole.

4.3 Permanent Bar From Approval or Expulsion/Termination of Membership

A permanent ban from approval of an individual or the termination or membership or expulsion from the Corporation is a severe economic penalty and should generally be reserved for cases where:

- the public itself has been abused;
- where it is clear that a respondent's conduct is indicative of a resistance to governance;
- the misconduct has an element of criminal or quasi-criminal activity; or

- there is reason to believe that the respondent could not be trusted to act in an honest and fair manner in all their dealings with the public, their clients, and the securities industry as a whole.

Hearing Panel may consider imposing a fine and requiring disgorgement even when a registrant is permanently barred in egregious cases involving significant harm to clients and/or to the integrity of the securities industry as a whole.

4.4 Other Remedies

To address the misconduct effectively in any given case, a Hearing Panel may design specific remedial sanctions other than a fine, disgorgement or suspension. For example, a Hearing Panel may impose sanctions that:

(i) require a Dealer Member firm to submit for the Corporation approval and/or implement procedures for improved future compliance with regulatory requirements;
(ii) require a Dealer Member firm to implement heightened supervision of certain individuals or branches / departments in the firm;
(iii) limit the activities of a registrant, including suspending or barring a registrant from acting in a supervisory capacity; or
(iv) require professional re-qualification by the writing of an exam or the successful completion of a remedial course of study.

This list is illustrative, not exhaustive, and is included to provide examples of the types of sanctions that may design to address specific misconduct.

GUIDELINES

Preamble: The minimum fines suggested within the individual guidelines are intended to establish the “baseline” fine for specific offences – in other words, the lowest fine that can be expected by a respondent where there are no aggravating factors and all mitigating factors have already been taken into account.

However, nothing in these guidelines shall fetter the discretion of a Hearing Panel to impose a lesser or greater penalty in specific circumstances.

QUASI-CRIMINAL OFFENCES

1.1 Fraud: Dealer Member Rule 29.1

Fraud is a serious regulatory matter. The intentional nature of the conduct is significant from a securities perspective. Fraud may be defined as false representations or other dishonest conduct which deprives the other person of something which is his or of something he might be entitled to. Fraud harms clients, Dealer Member firms and undermines the public's confidence in the industry as a whole.

Fraudulent conduct is often worthy of severe sanctions to deter others from similar activities.

Considerations in Addition to General Principles:	Recommended Sanctions:
1. Nature of circumstances and conduct. 2. Client knowledge/consent. 3. Loss to client (s). 4. The Respondent's intent. 5. Whether the Respondent was unjustly enriched and obtained/attempted to obtain a financial benefit from the fraudulent conduct. 6. Whether the Respondent concealed/attempted to conceal their conduct from the Dealer Member firm or the Corporation.	▪ Fine: Minimum of $25,000 for Approved Person; minimum of $100,000 for Dealer Member firm. ▪ In almost all cases a permanent ban on approval will be sought. ▪ If mitigating circumstances exist, consider suspension for 6 months to 10 years. ▪ Re-write CPH as a condition on re-approval if a suspension is granted. ▪ Fine should include the amount of any financial benefit to the Respondent.

1.2 Forgery: Dealer Member Rule 29.1

Forgery is the creation of a false document with the intent that it be acted upon as the original or genuine document.

Forgery is always a serious regulatory matter because it shows that the Respondent lacks the honesty required of a professional in the securities industry. The trust and confidence between the registrant and the client is very often destroyed by the deceptive conduct on the part of the registrant. Forgery harms the Dealer Member firm as well. As a result, forgery often attracts severe sanctions. While there is no such thing as a "minor case" of forgery, Hearing Panels may distinguish between more and less egregious examples of forgery.

Considerations in Addition to General Principles:	Recommended Sanctions:
1. Nature of document(s) forged. 2. Number of documents forged 3. Client(s) knowledge/consent. 4. Loss to client(s). 5. Respondent's intent. 6. Whether the Respondent was unjustly enriched and obtained/attempted to obtain a financial benefit from the forgery. 7. Whether the Respondent concealed/attempted to conceal their conduct from the Dealer Member firm or the Corporation.	▪ Fine: Minimum of $25,000 for Approved Persons; minimum of $100,000 for Dealer Member firms. ▪ In the absence of mitigating circumstances, a permanent ban on approval will be appropriate. ▪ If mitigating circumstances exist, consider suspension for 3 months to 10 years. ▪ Re-write CPH. ▪ Fine should include the amount of any financial benefit to the Respondent.

1.3 False Endorsement of Regulatory Documents: Dealer Member Rule 29.1

"False Endorsement" is defined as the execution or signing of a business record by a registrant for someone else with that person's knowledge or consent (but such consent cannot be given retroactively), but without advising the Dealer Member firm or the Corporation of that fact. It can also be the unintentional failure by a registrant to disclose that a regulatory document was signed by a person other than the named "signee". Such conduct amounts to conduct unbecoming.

"False Endorsement" is distinguished under these guidelines from forgery by the presence of the knowledge and consent of the client that the registrant is signing on their behalf.

Furthermore, for there to be a finding of "False Endorsement" for the purposes of these guidelines (as opposed to forgery), there must be no evidence of:

(i) fraud or criminal intent; and
(ii) monetary loss by the client

Considerations in Addition to General Principles:	Recommended Sanctions:
1. The nature of the document (s) in question. 2. The number of documents involved. 3. The importance of the document for compliance purposes. 4. The Respondent's intent. 5. Whether the Respondent subsequently took corrective measures, and if so, when.	▪ Fine: Minimum of $10,000 for Approved Persons ▪ Re-write CPH ▪ Period of strict supervision ▪ Suspension for 1 (one) month to up to 5 (five) years in egregious cases

1.4 Misappropriation of Funds: Dealer Member Rule 29.1

Misappropriation of funds is related to theft. Theft is the taking or converting of something that belongs to another without the other person's knowledge or consent. Misappropriation of funds involves knowledge or imputed knowledge of receipt of money from another person, knowledge or imputed knowledge of the direction attached to it and the intentional or unmistaken application of the funds to a purpose contrary to the direction. The dishonesty inherent in the offence lies in the intentional and unmistaken application of funds to an improper purpose.

Misappropriation is one of the more serious regulatory offences and the penalty upon conviction is generally a permanent bar, with few exceptions.

Considerations in Addition to General Principles:	Recommended Sanctions:
1. Amount of funds/nature of securities misappropriated. 2. Client(s) knowledge/consent. 3. Loss to client(s). 4. Respondent's intent. 5. Whether the Respondent was unjustly enriched and obtained/attempted to obtain a financial benefit from the misappropriation. 6. Whether the Respondent concealed/attempted to conceal their conduct from the Dealer Member firm or the Corporation.	▪ Fine: Minimum of $25,000 for Approved Person; minimum of $100,000 for Dealer Member firm. ▪ In almost every case, a permanent ban on approval. ▪ If extensive mitigating circumstances exist, consider suspension for 6 months to 10 years. ▪ Re-write CPH should a suspension be granted. ▪ Fine should include the amount of any financial benefit to the Respondent.

1.5 *Securities Act* breach or breach of any related Provincial or Federal Legislation -- Dealer Member Rule 29.1

Registrants must ensure that their conduct is in accordance with the relevant *Securities Act*(s), and any applicable Regulations, Policies, Interpretation Notes or Bulletins enacted thereto. More generally, individual registrants and Dealer Member firms have obligations to not knowingly participate in, nor assist in, any act in contravention of any applicable law, rule, or regulation of any government, governmental agency or regulatory agency governing his or her professional, financial or business activities. This conduct may cover a very wide range of offences and various principles and penalties may be appropriate.

Considerations in Addition to General Principles:	Recommended Sanctions:
1. Seriousness of legislative breach. 2. Client(s) knowledge/consent. 3. Loss to client(s). 4. Respondent's intent. 5. Whether the Respondent was unjustly enriched and obtained/attempted to obtain a financial benefit. 6. Whether the Respondent concealed/attempted to conceal their conduct from the Dealer Member firm or the Corporation.	▪ Fine: Minimum of $10,000 for Approved Person, minimum of $25,000 for Dealer Member firm. ▪ Consider suspension for 3 months to 10 years, or possible ban if conduct is egregious. ▪ Re-write CPH. ▪ Fine should include the amount of any financial benefit to the Respondent.

CONFLICT OF INTEREST

2.1 Unauthorized or Improper Use of Inside Information – Dealer Member Rule 29.1

A registrant may, from time to time, come into possession of inside information regarding a corporation. Such non-public and material information may come to the registrant through contact with other departments at the registrant's Dealer Member firm. Similarly, the registrant may learn of such information by virtue of his relationship with his clients who may be in positions to learn such information.

The registrant must refrain from acting on such information if it comes into his possession. This would include an obligation to refrain from trading for his own account based on such information; to refrain from basing trades in his clients' accounts based on such information; and to refrain from passing this information along to others.

Considerations in Addition to General Principles	Recommended Sanctions
1. Was the Respondent aware that the information received was inside information? 2. Was the Respondent aware of the prohibited nature of his activity? 3. Was the issuer harmed by the activity and if so to what extent? 4. Did the Respondent's activity have an effect on the market? 5. Was the Respondent disciplined by the applicable Stock Exchange or Securities Commission for the activity? 6. Did the Respondent use inside information for his own benefit only, or did he use same to solicit orders from clients and/or pass same to others? 7. Did the Respondent profit from the activity?	▪ Fine: Minimum of $25,000 for Approved Person, minimum of $50,000 for Dealer Member firm. ▪ Disgorgement of commissions and/or profits earned as a result of impugned transactions. ▪ Successful completion of appropriate industry program within 6 months ▪ Period of close supervision for 12 to 24 months. ▪ Suspension from acting in relevant capacity. ▪ In egregious cases, consider permanent prohibition on approval in any capacity.

2.2 Unauthorized or Improper Disclosure and/or Use of Client Information – Dealer Member Rule 29.1

By virtue of his or her relationship with a client, a registrant will, of necessity, obtain information of a confidential nature pertaining to clients. Such information may include an awareness of a client's personal and financial circumstances, such as income and net worth, as well as knowledge of a client's trading activities. Information of this sort, relating to clients' personal and financial circumstances, is confidential. The registrant must at all times maintain that confidentiality and refrain from disclosing such information.

The registrant must at all times conduct himself or herself in a manner that will prevent the disclosure of client information. The registrant is prohibited not only from releasing such information, but also, from using such information for his benefit or for the benefit of other clients or third parties.

Considerations in Addition to General Principles	Recommended Sanctions
1. How did the disclosure occur – was it intentional, negligent, reckless or accidental? 2. Was the activity an isolated incident or was it committed in connection with other offences, i.e., front running? 3. Was the consent of the client obtained, and if so, was it documented? 4. Did the Respondent have a reason to believe disclosure was necessary – i.e., belief that client was engaging in criminal activity? 5. Was Respondent aware of the prohibited nature of his activity? 6. Did the Respondent conceal or attempt to conceal his activity from the client and/or the firm? 7. Was the client harmed by the activity and if so to what extent? 8. Did the Respondent profit from the activity?	▪ Fine: Minimum of $15,000 for Approved Person, minimum of $30,000 for Dealer Member firm. ▪ Disgorgement of commissions and/or profits earned as a result of impugned transactions. ▪ Successful completion of appropriate industry program within 6 months. ▪ Period of close supervision for 12 to 24 months. ▪ In cases involving multiple clients/client losses/conduct over a period of time, consider a suspension from acting in relevant capacity. ▪ In egregious cases, consider permanent prohibition on approval in any capacity.

2.3 Undisclosed/Unauthorized Accounts – Dealer Member Rule 29.1

A registrant is bound to act in an ethical manner. He is prohibited from acting upon confidential information or inside information, which may come into his possession by virtue of his professional position. Any trading activities in his own accounts must be monitored in order to ensure he is acting in accordance with his legal, professional, and ethical obligations.

Any account maintained by a registrant , which has not been authorized by the applicable authorities at their Dealer Member firm, may not be scrutinized to the degree in which it should. Suspicious or unusual transactions may not appear in the absence of knowledge that a registrant maintains the account.

Considerations in Addition to General Principles	Recommended Sanctions
1. Did the Respondent conceal or attempt to conceal his activity from the client and/or the firm? 2. Were any clients harmed by the activity and if so to what extent? 3. Did the Respondent profit from the activity? 4. Did the Respondent engage in any other regulatory offences in connection with this activity, such as contravention of client priority rule, improper use of insider information, etc.? 5. Did the Respondent engage in any illegal conduct in connection with this activity such as contravention of money laundering legislation etc?	▪ Fine: Minimum of $10,000. ▪ Disgorgement of profits earned as a result of transactions undertaken in the subject account. ▪ Successful completion of appropriate industry program within 6 months. ▪ Period of close supervision for 12 to 24 months. ▪ In cases involving multiple clients/client losses/conduct over a period of time, consider a suspension from acting in relevant capacity. ▪ In egregious cases, consider permanent prohibition on approval in any capacity.

2.4 Undisclosed Personal Business – Dealer Member Rule 29.1

Registrants must conduct themselves in a professional manner. This includes ensuring that any personal business activities engaged in by the registrant are such that they do not tend to harm the standing of the profession in the eyes of the community, and that they do not bring the reputation of the profession into disrepute.

Registrants should disclose any personal business activities to their branch manager in order to ensure that the proposed activities are in no way questionable, and in order that such activities can be monitored by the Dealer Member firm to ensure the registrant continues to provide his clients with a high level of service.

Considerations in Addition to General Principles	Recommended Sanctions
1. Did the Respondent conceal or attempt to conceal his activity from the Dealer Member firm? 2. Were any clients harmed by the activity, and if so to what extent? 3. Did the Respondent use his professional position as a means of furthering his personal business endeavors? 4. Was there at any time a real, perceived, or potential conflict between the Respondents interests and those of his clients? 5. Did the Respondent engage in any illegal conduct or other regulatory offences in connection with this activity?	• Fine: Minimum of $10,000. ▪ Requirement that Respondent refrain from engaging in similar activities while employed in industry. ▪ Requirement that Respondent disclose future proposed activities to Dealer Member firm for approval and ongoing monitoring. ▪ Suspension from acting in relevant capacity. ▪ Successful completion of appropriate industry program within 6 months. ▪ Period of close supervision for 12 to 24 months. ▪ In egregious cases, consider permanent prohibition on approval in any capacity.

2.5 Undisclosed Personal Business with a Client (includes borrowing from a client without firm knowledge or consent) – Dealer Member Rule 29.1

As a professional, a registrant must use his specialized knowledge to protect his client. He must strive to put the interest of his client ahead of his own.

The relationship between the client and the registrant is one of principal and agent. The registrant is bound not only to carry out his client's instructions, but also has a duty to act in the client's best interest and is not permitted to allow personal interest to conflict with the interests of the client.

Personal business dealings with clients should be avoided as they create a potential for the registrant to place his interests above those of his client. When such dealings are not objectionable, such as in cases of a pre-existing relationship or a family relationship between the client and the registrant the consent of both the client and the registrant's firm should be sought and obtained.

Considerations in Addition to General Principles	Recommended Sanctions
1. Are there any circumstances which make the offensive activity less objectionable– pre-existing/family relationship between client and the Respondent? 2. Was the activity an isolated incident or part of a larger pattern of conduct involving multiple clients? 3. Was the conflict of interest/potential conflict explained to the client? 4. Was the activity disclosed to the firm and its consent obtained? 5. Was the Respondent aware of the prohibited nature of his/her activity? 6. Level of client sophistication/ability to appreciate potential conflict and provide "informed" consent? 7. Did the Respondent conceal or attempt to conceal his activity from the client and/or the firm? 8. Was the client harmed by the activity and if so to what extent? 9. Did Respondent profit from the activity? 10. Did the Respondent engage in any illegal conduct in connection with this activity,	▪ Fine: Minimum of $10,000. ▪ Disgorgement of commissions earned as a result of impugned transactions. ▪ Successful completion of appropriate industry program within 6 months. ▪ Period of close supervision for 12 to 24 months. ▪ In cases involving multiple clients/client losses/conduct over a period of time, consider a suspension from acting in relevant capacity. ▪ In egregious cases, consider permanent prohibition on approval in any capacity.

such as forgery, misappropriation, etc.?

2.6 Attempt to Settle Client Claim for Compensation – Dealer Member Rule 29.1

A client who has a complaint regarding the activities of a registrant is entitled to a fair and unbiased determination as to the validity of that complaint. If the client's complaint is well-founded, he is entitled to present same to civil dispute resolution channels and the Dealer Member firm for compensation; and to the appropriate regulatory bodies to consider possible disciplinary action. A registrant who attempts to, or does, settle a client claim deprives his client of these options, and prefers his interest over that of his client.

Considerations in Addition to General Principles	Recommended Sanctions
1. Did the Respondent conceal or attempt to conceal his activity from the Dealer Member firm? 2. Were any clients harmed by the activity and if so to what extent? 3. Was the client advised of the prohibited nature of this activity and, if so, did he/she appreciate same? 4. Was the client coerced to accept the settlement offered?	▪ Fine: Minimum of $10,000. ▪ Suspension from acting in relevant capacity for 6 to 12 months. ▪ Successful completion of appropriate industry program within 6 months. ▪ Period of close supervision for 12 to 24 months. ▪ In egregious cases, consider permanent prohibition on approval in any capacity.

2.7 Failure to ensure Client Orders are given Priority – Dealer Member Rule 29.1 and 1300.17

As part of his obligation to act in the best interests of his client, the registrant must ensure that client orders are processed before orders for the registrant for the same security at the same time and price. Failure to do so may result in the registrant obtaining a better price for a security than a client, or in the client's order failing to be filled. Where the interests of the registrant and a client conflict, the registrant must always prefer the interest of the client to his own, and give priority to his clients' orders.

Considerations in Addition to General Principles	Recommended Sanctions
1. Was the conduct intentional or the result of a mistake? 2. Were any other regulatory offences (i.e. misuse of confidential or inside information) committed in connection with the activity? 3. Was the trade reversed and the client given the better fill? 4. Were any clients harmed by the activity and if so to what extent? 5. Did the Respondent profit from the activity?	▪ Fine: Minimum of $15,000 for Approved Persons; $50,000 for Dealer Member firm. ▪ Disgorgement of profits obtained as a result of prohibited activity. ▪ Suspension from acting in relevant capacity for 6 to 12 months. ▪ Successful completion of appropriate industry program within 6 months. ▪ Period of close supervision for 12 to 24 months. ▪ In egregious cases, consider permanent prohibition on approval in any capacity.

IMPROPER SALES PRACTICE

3.1 Unsuitable Recommendations - Dealer Member Rule 1300.1(p)

The core of a registered representative's business activity is to make recommendations for his/her clients. Registrants have a basic duty to ensure that the recommendations are suitable, and in accordance with the clients' investment objectives and risk factors. The courts have generally held that a registrant owes a fiduciary duty to the client where the client relies upon the advice and recommendations of the registrant. This fiduciary relationship requires the registrant to act carefully, honestly and in good faith in dealing with the client. Therefore, a registrant who makes unsuitable recommendations has breached his/her fiduciary duty owed to the client.

Even in absence of general fiduciary relationship between registrant and client, there is at the very least, a relationship of trust and confidence that exists between a registrant and client. A client will rely upon and place confidence in the recommendations made by the registrant, who has an obligation to ensure the recommendations are suitable. Where the recommendations are unsuitable for the client, the registrant has breached his position of trust and failed to fulfill the most basic of responsibilities towards the client.

Considerations in Addition to General Principles	Recommended Sanctions
1. Extent of due diligence conducted with respect to recommended security. 2. Magnitude of losses directly attributable to the unsuitable recommendations. 3. The number of clients affected. 4. The level of sophistication of the clients. 5. The existence of any pattern of making unsuitable recommendations. 6. Presence of any ulterior motive (i.e. financial gain to the Respondent).	▪ Fine: Minimum of $10,000. ▪ Disgorgement of profits. ▪ Re-write of CPH. ▪ Period of Close and/or Strict supervision. ▪ Period of suspension (in most egregious cases involving elements of deception and misrepresentations).

3.2 Failure to Know Your Client - Dealer Member Rule 1300.1(a) and (b)

The Know Your Client rule is of paramount importance for the securities industry. All registrants must make diligent and business-like efforts to learn and record the essential financial and personal circumstances, and the investment objectives of each client. Knowing your client is a fundamental ongoing obligation that a registrant is required to meet in order to be able to act in the best interests of his/her clients.

Considerations in Addition to General Principles	Recommended Sanctions
1. Nature and Extent of Failure to know your client. 2. Magnitude of losses directly attributable to the failure to know your client. 3. The level of sophistication of the client. 4. Extent of due diligence conducted to determine the essential facts of the client.	▪ Fine: Minimum of $10,000. ▪ Re-write of CPH. ▪ Period of close and/or strict supervision. ▪ Period of suspension (in most egregious cases).

3.3 Failure to Update NAAF - Dealer Member Rule 29.1 and 1300.1(a)

The requirement to update a NAAF is a corollary to the Know Your Client rule. All material information about a client should be reflected in the client's account documentation. The account documentation should be updated to reflect any material changes to the client's status in order to assure the suitability of investment recommendations. Failure to do so may constitute conduct unbecoming a registrant.

Considerations in Addition to General Principles	Recommended Sanctions
1. Nature of material information omitted from documentation. 2. Consequences of not updating NAAF. 3. Reason for not updating NAAF.	▪ Fine: minimum of $5,000. ▪ Re-write of CPH.

3.4 Order not within Bounds of Good Business Practice - Dealer Member Rule 1300.1(o)

Historically, this contravention has involved situations where the registrant executes trades in a client's account where there are insufficient funds in the account to settle the trade (i.e. Free-riding). This broadly worded regulation also covers other scenarios, such as accepting trades that do not meet the restrictions imposed upon a particular account. For many of the situations that are captured by this regulation, the main concern will be the client's best interests. That is, orders not within the bounds of good business practice will involve, to some degree, a breach of the registrant's duty to act in the client's best interest.

Considerations in Addition to General Principles	Recommended Sanctions
1. Basis for which order not within bounds of good business practice. 2. Number of orders executed. 3. Magnitude of losses, if any, directly attributable to the orders executed. 4. Client's acceptance of orders. 5. Level of sophistication of client.	▪ Fine: Minimum of $10,000. ▪ Disgorgement of profit. ▪ Re-write of CPH. ▪ Period of close and/or strict supervision. ▪ Period of suspension (in most egregious cases where significant losses to client and elements of deception present).

3.5 Churning – Dealer Member Rule 29.1 and 1300.1(o)

Churning is a practice whereby a registrant trades excessively in the account in light of the character of the account and the customer's objectives. Churning involves an intention to generate commissions in willful disregard of the interests of the client. This is a contravention, which by its very definition, goes beyond an error of judgment or negligence. Churning is an abuse of client confidence and a breach of a registrant's fiduciary obligations to the client.

Considerations in Addition to General Principles	Recommended Sanctions
1. Length of time churning took place. 2. Extent of churning (ie. No. and value of trades). 3. No. of clients subject to churning. 4. Existence of any client losses.	▪ Fine: Minimum of $20,000. ▪ Disgorgement of profits. ▪ Re-write of CPH. ▪ Minimum 12 months close and/or strict supervision. ▪ Period of suspension (in most egregious cases).

3.6 Discretionary Trading – Dealer Member Rule 1300.4 & 1300.5

Discretionary trading, in and of itself, is not prohibited conduct for a registrant. The essence of the contravention relates to lack of proper written authorization by the client. A registrant cannot engage in discretionary trading unless the account has been properly designated as a "discretionary" or "managed" account, pursuant to Dealer Member Rule 1300.4 and 1300.5, respectively. The extent of the misconduct will vary greatly. At the low end of the spectrum, a breach of these regulations may only be minor in nature; where the client provided verbal authority to engage in discretionary trading without the proper written documentation prepared by the registrant. On the other end of the spectrum, discretionary trading can be egregious and involve elements of deception in that the registrant is not completely open and honest as to the type of trading taking place within the client's account.

It should be noted however, that in cases where the client has provided verbal authority, the contravention should not be viewed simply as a paper violation. Obtaining proper approval to designate an account as discretionary or managed is not automatic. The process of approval is required to ensure that only properly qualified registrants trade in the accounts. These designated accounts are also subject to greater supervision. Discretionary trading without the proper authorization is therefore not subject to the safeguards that form part of the approval process, and puts the clients accounts at greater risk.

Considerations in Addition to General Principles	Recommended Sanctions
1. Number of unauthorized trades. 2. Whether client provided verbal authority to engage in discretionary trading. 3. Underlying reason for engaging in discretionary trading. (eg. for personal financial gain). 4. The number of clients affected. 5. Period of time discretionary trading took place. 6. Suitability of discretionary trades. 7. Magnitude of client losses.	▪ Fine: Minimum fine of $5,000. ▪ Disgorgement of profits. ▪ Period of close and/or Strict supervision. ▪ Re-write of CPH. ▪ Period of suspension (in most egregious cases involving large number of large value trades).

3.7 Unauthorized Trading – Dealer Member Rule 29.1

One of the five primary values set out in the Code of Ethics states that "Registrants must conduct themselves with trustworthiness and integrity, and act in an honest and fair manner in all dealings with the public, clients, employers and colleagues." There is a relationship of trust and confidence that exists between a registrant and client. When a registrant executes trades without the knowledge or consent of his/her client, the registrant has breached his/her ethical obligations to his client.

Considerations in Addition to General Principles	Recommended Sanctions
1. Number of unauthorized trades. 2. Underlying reason for executing unauthorized trades. (eg. for personal financial gain). 3. The number of clients affected. 4. Period of time unauthorized trading took place. 5. Suitability of unauthorized trades. 6. Magnitude of client losses, if any.	▪ Fine: Minimum fine of $15,000. ▪ Disgorgement of profits. ▪ Period of close and/or strict supervision. ▪ Re-write of CPH. ▪ Period of suspension (in most egregious cases involving large number of large value trades).

3.8 Unauthorized Distribution of Sales Literature – Dealer Member Rule 29.7

The rationale for requiring approval prior to the distribution of advertisements or sales literature is to ensure that no misleading, inaccurate and otherwise prohibited information, (as outlined in Dealer Member Rule 29.7) is provided to a client who may act upon such information in making investment decisions.

Considerations in Addition to General Principles	Recommended Sanctions
1. Whether materials distributed would have received approval by Dealer Member firm. 2. Materiality of misrepresentations or prohibited information, if any, contained in materials. 3. Whether client(s) acted upon misrepresentations or prohibited information contained in materials. 4. Whether registrant had honest but mistaken belief that approval was obtained. 5. Number of clients in receipt of materials.	▪ Fine: Minimum $5,000. ▪ Period of strict or close supervision. ▪ Period of suspension (where material misrepresentations and/or other prohibited information contained in materials.)

3.9 Unauthorized Third Party Instructions – Dealer Member Rule 200.1(i)(3)

As with discretionary trading, the extent of the misconduct related to this contravention will vary greatly. A breach of this regulation may only be a technical contravention, where the client provided verbal authority for a third party to provide instructions to the registrant. On the other hand, a registrant who receives instructions from an unauthorized third party may have engaged in deceptive practices, where the client was completely unaware of the third party and/or the instructions given.

Considerations in Addition to General Principles	Recommended Sanctions
1. Number of unauthorized instructions acted upon by registrant. 2. Whether client provided verbal authority. 3. Underlying reason for accepting unauthorized instruction(s). 4. Nature of Instructions and its impact upon the account. 5. Magnitude of client losses.	▪ Minimum fine of $5,000. ▪ Re-write of CPH. ▪ Period of close or strict supervision. ▪ Period of suspension (in most egregious cases involving elements of deception and misrepresentations to client).

3.10 Outside Business Activities – Dealer Member Rule 29.1

Standard C of the Standards of Conduct relates to professionalism and states among other things, that all methods of conducting business must be such as to merit public respect and confidence. Outside business activities that is not known or consented to by the Dealer Member firm, does not merit public confidence or respect. As explained in the related commentary to Standard C of the CPH handbook, "Dealings in securities outside of the normal business of the firm, sometimes referred to as selling away or outside deals may expose clients to unknown risks and expose registrants and firms to civil liability. Such activity done without the knowledge of the firm also prevents effective supervision of the handling of client accounts, which is a requirement placed upon firms by the SROs. Firms may be exposed to liability for the actions of their employees in the effecting such trades, even though the firm is unaware of the activities."

Considerations in Addition to General Principles	Recommended Sanctions
1. Magnitude (in size and value) of outside business activity. 2. Number of clients affected. 3. Magnitude of client losses. 4. Suitability of outside business activity if involving securities. 5. Compensation received by registrant. 6. Any personal interest of registrant in outside business activity. 7. Existence of client complaints. 8. Whether registrant had honest but mistaken belief that proper approval obtained. 9. Legality of outside activity.	▪ Fine: Minimum fine of $10,000. ▪ Disgorgement of profits received from outside business activity. ▪ Re-write of CPH. ▪ Period of strict/close supervision ▪ Period of suspension (in most egregious cases involving large value high risk off-book distributions).

INTERNAL CONTROL OFFENCES

4.1 Capital Deficiencies – Dealer Member Rule 17.1

A Dealer Member is required to have and maintain at all times Risk Adjusted Capital greater than zero. If at any time the Risk Adjusted Capital of a Dealer Member is, to the knowledge of such Dealer Member, less than zero, the Dealer Member must immediately notify the Vice-President, Financial & Operations Compliance and the District Corporation Auditors.

The Chief Financial Officer is responsible for the continuous monitoring of the capital position of the Dealer Member to ensure that the Risk Adjusted Capital is maintained as prescribed and must document such monitoring at least weekly and report adverse trends or variances to senior management of the Dealer Member.

Senior management of the Dealer Member must take prompt action to avert or remedy any projected or actual capital deficiency and report any deficiency immediately to the Corporation.

Considerations in Addition to General Principles	Recommended Sanctions
1. Amount of capital deficiency relative to capital employed. 2. Extent of time period of capital deficiency. 3. Length of time to correct deficiency. 4. Deficiency reported promptly or discover by SRO, external auditors or other party. 5. Cause of capital deficiency – careless or inadvertent error or intentional or reckless disregard for requirements.	**Dealer Member**: ▪ Fine: minimum fine of $25,000. ▪ Suspension: where deficiency is result of deliberate or reckless disregard for requirements. ▪ Immediate suspension (Dealer Member Rule 20.33): where deficiency is not corrected and there is a likelihood of financial loss to the public. **CFO or Senior Management** ▪ Fine: Minimum fine of $10,000. ▪ Re-write of PDO. ▪ Period of suspension from director/officer/supervisory and or compliance responsibilities. ▪ Permanent ban from approval in most egregious cases.

4.2 Failure to Establish and/or Maintain Adequate Internal Controls – Dealer Member Rule 17.2A

A Dealer Member must establish and maintain internal controls in accordance with the internal control policy statements in Dealer Member Rule 2600.

Statement 1 defines internal control as follows:

> *"Internal control consists of the policies and procedures established and maintained by management to assist in achieving its objective of ensuring, as far as practical, the orderly and efficient conduct of the entity's business. The responsibility for ensuring adequate internal control is part of management's overall responsibility for the day-to-day activities of the entity". (CICA Handbook, 5200.03).*

Dealer Members must maintain a detailed written record containing the specific policies and procedures approved by senior management to comply with the Corporation Internal Control Policy Statements. These policies and procedures must be reviewed and approved in writing by senior management at least annually for their adequacy and suitability.

The establishment and maintenance of adequate internal controls is management's responsibility. Consequently, a Dealer Member or a Senior Manager can be in contravention of Dealer Member Rule 17.2A.

Considerations in Addition to General Principles	Recommended **Sanctions**
1. Extent and nature of internal control inadequacy (e.g. capital requirement control, insurance or client funds/securities segregation or safekeeping problem). 2. If client funds or securities safekeeping problem, consider the number of transactions and amount involved and the amount not recovered. 3. Attempt by employee to defraud or misappropriate client funds or securities. 4. Intentional or reckless disregard for requirements, or whether due to carelessness or inadvertence.	**Dealer Member:** ▪ Fine: Minimum of $25,000. **Senior Managers:** ▪ Fine: Minimum of $10,000. ▪ Re-write of PDO. ▪ Period of suspension from director/officer/supervisory and or compliance responsibilities. ▪ Permanent ban from approval in most egregious cases.

4.3 Failure to Supervise – Dealer Member Rule 29.27, 1300.2, 2500 and 2700

Each Dealer Member must designate a director, partner or officer who is responsible for the opening of new accounts and the supervision of account activity (Ultimate Designated Person). An Alternate Designated Person may be appointed by the Dealer Member where necessary to ensure continuous supervision.

The Ultimate Designated Person (or Branch Manager appointed by Ultimate Designated Person) is responsible for establishing and maintaining procedures for account supervision and shall ensure that the handling of client business is within the bounds of ethical conduct, consistent with just and equitable principles of trade and not detrimental to the interests of the securities industry.

The minimum requirements for establishing and maintaining a system to supervise the activities of each partner, director, officer, registered representative, employee, and agent are set out in Dealer Member Rule 29.27. The minimum standards for retail account supervision are detailed in Dealer Member Rule 2500 (including branch office and head office account supervision). The minimum standards for institutional account supervision are detailed in Dealer Member Rule 2700.

Considerations in Addition to General Principles	Recommended Sanctions
1. Extent of inadequacy in the procedures for supervision or the actual supervision of employee(s). 2. Extent of employee(s) misconduct. 3. Amount of losses or compensation for which the Dealer Member is liable as a result of the employee(s) misconduct. 4. "Red flag" warnings that should have been caught by a proper system of supervision/failure to follow-up or to conduct periodic reviews. 5. Corrective measures taken since discovery of problem.	**Dealer Member**: ▪ Fine: Minimum fine of $50,000. ▪ Consider condition that Dealer Member demonstrate that its procedures and practices meet the Corporation standards; additional monthly fine until the Corporation is satisfied. ▪ Suspension or expulsion of Dealer Member in egregious cases. **Designated Person/Supervisor:** ▪ Fine: Minimum of $25,000 ▪ Re-write of PDO. ▪ Period of suspension or permanent bar from director/officer/supervisory and or compliance responsibilities. ▪ Permanent bar from approval in all capacities in egregious cases.

4.4 Fail to Obtain/Maintain Minimum Required Margin – Dealer Member Rule 17.13

Every Dealer Member must obtain from clients and maintain in respect of its own account such minimum margin in accordance with Dealer Member Rule 100.

Contraventions of Dealer Member Rule 17.13 can be by the Dealer Member, supervisor and/or registered representative, depending on the facts of the situation.

Considerations in Addition to General Principles	Recommended Sanctions
1. Number of accounts involved. 2. Extent of under-margin positions. 3. Extent of any loss to client(s) or the Dealer Member and any resultant risk to the credit rating of the Dealer Member (i.e. CIPF). 4. Intentional disregard for requirements or due to carelessness or inadvertence.	**Dealer Members**: ▪ Fine: Minimum fine of $25,000. ▪ Consider condition that Dealer Member demonstrate credit control procedures that meet the Corporation standards; additional fine monthly until satisfied. ▪ Suspension or expulsion in egregious cases involving intentional or reckless disregard for requirement(s). **Supervisor**: ▪ Fine: Minimum of $10,000. ▪ Re-write of PDO. ▪ Period of suspension from director/officer/supervisory and or compliance responsibilities. ▪ Permanent bar from approval in most egregious cases. **Registered Representative:** ▪ Fine: Minimum fine of $5,000. ▪ Re-write CPH. ▪ Period of suspension or permanent bar from approval in most egregious cases.

4.5 Record Keeping Violations – Dealer Member Rule 17.2 and 200

Every Dealer Member shall keep and maintain at all times current books and records necessary to record properly its business transactions, pursuant to Dealer Member Rule 17.2. The records required under Dealer Member Rule 17.2 are set out in Dealer Member Rule 200.

Contraventions of Dealer Member Rule 17.2 or 200 can be by the Dealer Member firm, or by the approved person designated as responsible for the maintaining of the record in question.

Considerations in Addition to General Principles	Recommended Sanctions
1. Nature of the inaccurate or missing information. 2. The materiality of the inaccurate or missing information. 3. The extent of any loss to client(s) or the Dealer Member firm. 4. Whether there was an intentional disregard for Corporation requirements or if the failure to keep proper records was due to carelessness or inadvertence.	**Dealer Member Firm:** ▪ Fine: Minimum of $25,000. ▪ Suspension until such time as the record keeping violations have been corrected. **Senior Managers:** ▪ Fine: Minimum of $10,000. ▪ Rewrite the PDO. ▪ Period of suspension from Director/Officer/Supervisory and/or compliance responsibilities. ▪ Permanent bar from approval in all registered capacities in the most egregious of cases .

OTHER

5.1 Failure to Cooperate – Dealer Member Rule 19.5 and 19.6

Dealer Member Rule 19.5 provides that any person under the jurisdiction of the Corporation is obliged to submit a report in writing with regard to any matter being investigated by the Corporation, to produce for inspection and to provide copies of the books, records and accounts relevant to such an investigation, and to meet and give information respecting the investigation.

Once an examination or investigation is initiated, the Corporation's staff is entitled to free access to any and all records of the Dealer Member or person concerned, who is prohibited from withholding or concealing any documents reasonably required for the purpose of the examination or investigation (Dealer Member Rule 19.6).

Consequently, failure to cooperate / impeding a Corporation investigation, whether by a Dealer Member firm or a registered representative, is serious misconduct because it subverts the Corporation's ability to perform its regulatory function. This category of misconduct is broad enough to include the following:

- failure to cooperate or respond in a timely manner.
- failure to respond truthfully
- failure to cooperate or respond completely

Considerations in Addition to General Principles	Recommended Sanctions
1. The disciplinary history of the Respondent. 2. Was the contravention intentional or inadvertent? 3. Was there complete or only partial non-compliance? 4. The impact that the non-compliance had on the investigation. 5. Whether the Respondent can demonstrate that his or her refusal to cooperate was based on reasonable reliance on competent legal advice? 6. What is the nature of the document/ information requested? Were they of material importance to the pending investigation/hearing?	▪ Fine: Minimum of $10,000 Approved Persons and $50,000 for a Dealer Member firm. ▪ Immediate suspension for 30 days to 90 days pending compliance with Dealer Member Rule 19.5. ▪ Expulsion of Dealer Member or permanent ban from approval in any capacity of an Approved Person if the Respondent still fails to cooperate at the end of the temporary suspension.

5.2 Misrepresenting Credentials to Corporation upon Registration/Transfer - Dealer Member Rule 29.1

The filing with the Corporation of information with respect to membership or registration which is incomplete or inaccurate so as to be misleading, or which in any way tend to mislead, or the failure to correct such filing after notice thereof, may be deemed to be conduct inconsistent with just and equitable principles of trade, in that it is a fundamental tenet of securities regulation in Canada that registrants be educated to an established standard, and otherwise proficient to serve and protect investors. When a registrant has misrepresented his or her credentials to the Corporation, this amounts to conduct unbecoming, contrary to Dealer Member Rule 29.1, and disciplinary sanctions should be imposed.

Any intentional misrepresentation on an application for registration or transfer should be treated severely, and a substantial fine, suspension or permanent bar from approval in any capacity should be considered.

Considerations in Addition to General Principles	Recommended Sanctions
1. The disciplinary history of the Respondent. 2. Was the contravention intentional or inadvertent? 3. Whether the Respondent made attempts to correct the misrepresentation in a timely manner.	▪ Fine: Minimum of $5,000. ▪ Suspension until credentials are proven. ▪ Expulsion of Dealer Member or permanent ban from approval in any capacity of an Approved Person where there is an intentional or reckless attempt to mislead the Corporation.

5.3 Allowing an Unregistered Person to Trade - Dealer Member Rule 29.1

The failure of a Dealer Member to register an employee, who should be so registered, or ensure that an employee is properly registered, may be deemed to be conduct inconsistent with just and equitable principles of trade. Such a failure amounts to conduct unbecoming and may be detrimental to the public interest, contrary to Association By-law 29.1. The duty to ensure that a employee has met all of the registration and proficiency requirements of the Corporation, as set out in Policy 6, or otherwise before allowing an employee to act in any registered capacity may not only be the responsibility of the Dealer Member, but also their supervisory staff, including branch managers, UDPs and ADPs.

Considerations in Addition to General Principles	Recommended Sanctions
1. Was the contravention intentional or inadvertent? 2. Whether the unregistered person had a pending application for registration. 3. Was there complete or only partial non-compliance? 4. What was the nature and extent of the unregistered person's responsibilities? 5. What, if any, was the impact of the non-compliance on the Dealer Member's clients?	▪ Fine: Minimum of $5,000 for Approved Persons and $25,000 for a Dealer Member firm. ▪ Suspension. ▪ Imposition of conditions upon continued approval, including the re-writing of qualifying exams.

5.4 Conducting Business While Suspended - Dealer Member Rule 29.1

The failure of a Dealer Member or an individual registrant to comply with a suspension either as a result of an administrative action by the Corporation or a suspension as a result of an Order arising out of a disciplinary proceeding under Dealer Member Rule 20, amounts to conduct unbecoming pursuant to Dealer Member Rule 29.1.

Considerations in Addition to General Principles	Recommended Sanctions
1. Was the contravention intentional or inadvertent? 2. What was the nature and extent of the breach of the suspension? 3. What, if any, was the impact of the non-compliance on the Dealer Member's clients?	▪ Fine: Minimum of $10,000 for Approved Persons and $50,000 for a Dealer Member firm. ▪ Disgorgement of any commissions/ profits earned while suspended. ▪ Further suspension consecutive to the original suspension. ▪ The minimum penalty for breaching a suspension Order of a Hearing Panel by conducting business should be a permanent ban.

5.5 Misrepresentations - Dealer Member Rule 29.1

Negligently or knowingly misrepresenting facts to clients or a Dealer Member firm may result in a contravention of Dealer Member Rule 29.1. The misrepresentation, the context in which it was made, and the motivation for it (if any) are significant factors to be considered.

Considerations in Addition to General Principles	Recommended Sanctions
1. Was the misrepresentation intentional or negligent? 2. To whom was the misrepresentation made? 3. Did anyone rely on the misrepresentation? 4. Was the misrepresentation corrected subsequently? 5. Did the Respondent benefit in anyway from the misrepresentation?	▪ Fine: Minimum of $15,000 for Approved Persons and $50,000 for a Dealer Member firm. ▪ Disgorgement of any benefit received as a result of misrepresentation. ▪ In egregious cases, a permanent ban on approval or termination of Dealer Membership should be considered.