

## **Consolidation of By-law No. 10 with By-laws 11, 12 and 13 Amendments**

### **OMBUDSMAN FOR BANKING SERVICES AND INVESTMENTS/ OMBUDSMAN DES SERVICES BANCAIRES ET D'INVESTISSEMENT**

#### **BY-LAW NO. 10 - GENERAL BY-LAWS**

**being a by-law to consolidate, amend  
and supersede all paragraphs contained in By-law No. 9  
with the exception of paragraph 46 of By-law No. 9,  
which is set out as paragraph 46 herein  
and remains in force and unamended.**

#### **DEFINITIONS**

1. In these by-laws and in all other by-laws of the Corporation hereafter passed unless the context otherwise requires:
  - (a) “Act” means the Canada Corporations Act, R.S.C. 1970, c. C-32 and any act that may be substituted therefor, as from time to time amended;
  - (b) “Audit Committee” means the committee of the Corporation charged with duties pursuant to paragraphs 61(a) through 61(f);
  - (c) “Board” means the Board of Directors of the Corporation;
  - (d) “By-laws” means the By-laws of the Corporation filed with the application for Letters Patent and all other by-laws of the Corporation from time to time in force and effect;
  - (e) “CEO” means the Chief Executive Officer of the Corporation;
  - (f) “Chair” means the Chair of the Board appointed pursuant to sections 72 and 77;
  - (g) “Corporation” means Ombudsman for Banking Services and Investments /Ombudsman des services bancaires et d’investissement incorporated as a corporation without share capital under the Act by Letters Patent;
  - (h) “Deputy Ombudsman” means the Deputy Ombudsman of the Corporation;
  - (i) “Directors” means the Industry Directors and the Independent Directors, collectively;
  - (j) “Financial Services Providers” means, collectively, domestic or foreign financial institutions or financial services entities that directly or indirectly provide financial products and services to customers in Canada, each of which has an internal complaint-handling service and, “Financial Service Provider” means any one of the aforementioned financial service providers;

- (k) “Independent Directors” means the directors elected pursuant to paragraph 33(c) together with sections 35 and 37;
- (l) “Industry Directors” means the directors appointed pursuant to paragraph 33(b) together with section 36;
- (m) “Industry Associations” means, collectively, the Canadian Bankers Association (“CBA”), the Investment Dealers Association of Canada (“IDA”), The Investment Funds Institute of Canada (“IFIC”), the Mutual Fund Dealers Association of Canada (“MFDA”), and other participating industry associations, and their successors, and, “Industry Association” means any one of the aforementioned Industry Associations;
- (n) “Letters Patent” means the Letters Patent incorporating the Corporation, as from time to time amended and supplemented by supplementary letters patent;
- (o) “Member” means any one of the Independent Directors, Industry Directors, Industry Associations or Financial Services Providers admitted as members of the Corporation pursuant to section 7, unless the context otherwise requires;
- (p) “Nominating Committee” means the committee of the Corporation charged with duties pursuant to paragraph 68(e);
- (q) “Non-voting Members” means those Members who are not also Directors of the Corporation;
- (r) “Ombudsman” means the Ombudsman of the Corporation;
- (s) “Secretary” means the Secretary of the Corporation;
- (t) “Special Resolution” means a resolution confirmed by an affirmative vote of at least two thirds (2/3rds) of the Voting Members present at a meeting duly called for that purpose;
- (u) “Treasurer” means the Treasurer of the Corporation; and
- (v) “Voting Members” means those Members who are also Directors of the Corporation.

## **INTERPRETATION**

2. In these By-laws and in all other By-laws hereafter passed, unless the context otherwise requires, words importing the singular number or the masculine gender shall include the plural number or the feminine gender, as the case may be, and vice versa, and references to persons shall include individuals, firms and corporations. The division of these By-laws into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof.

### **CORPORATE SEAL**

3. Until changed by resolution of the Board, the seal, an impression whereof is stamped in the margin hereof, shall be the seal of the Corporation.

### **FINANCIAL YEAR**

4. Unless otherwise ordered by the Board, the fiscal year-end of the Corporation shall be October 31.

### **HEAD OFFICE**

5. Until changed in accordance with the Act, the Head Office of the Corporation shall be in the City of Toronto, in the Province of Ontario at such place within the City of Toronto as the Board may determine from time to time by resolution.

### **CONDITIONS OF MEMBERSHIP**

6. Upon this By-law No. 10 coming into effect the Members of the Corporation shall be those persons listed in the members' register of the Corporation and, thereafter, membership in the Corporation shall be limited to:
  - (a) the current Directors of the Corporation that have been admitted to membership pursuant to paragraph 7(a);
  - (b) Industry Associations that have submitted membership applications to the Corporation and have been admitted to membership pursuant to paragraph 7(b); and
  - (c) Members of the IDA, the IFIC and the MFDA whose Industry Associations have submitted membership applications to the Corporation and have been admitted to membership pursuant to paragraph 7(b);
  - (d) Financial Services Providers that are not members of an Industry Association that is a Member and that have submitted membership applications to the Corporation and have been admitted to membership pursuant to paragraph 7(c).
7. An applicant for membership in the Corporation shall submit an application to the Secretary of the Corporation in a form acceptable to the Secretary with the exception of the members of the IDA, the IFIC and the MFDA, which shall be deemed to have submitted an application upon their respective Industry Association submitting an application. An individual shall not be appointed as an Independent Director or Industry Director of the Corporation unless that individual has consented to serve as a Director

and applied to become a Member of the Corporation. An applicant for membership in the Corporation shall become a Member:

- (a) in the case of an Independent Director or an Industry Director, effective upon the date of such Director's appointment to the Board;
- (b) in the case of an Industry Association and the members of the IDA, the IFIC and the MFDA, upon approval of such Industry Association's application by the Board; and
- (c) in the case of a Financial Services Provider, upon receipt of an application for membership from an entity that is regulated by a recognized federal or provincial regulator, such as the Office of the Superintendent of Financial Institutions, the Inspecteur General of Quebec or the Canada Deposit Insurance Corporation, effective upon the date of such application, provided that:
  - (i) if the entity is not federally or provincially regulated, upon approval by the Board; and
  - (ii) if the status of a Member changes such that it is no longer an entity that is regulated by a recognized federal or provincial regulator, the Board shall review the Member's status and either approve the continuation of the Member's membership or revoke the Member's membership.

The Board shall have the right to refuse an application for membership that is made by an entity referred to in paragraph 7(b) and sub-paragraph 7(c)(i).

8. No membership fees or dues shall be levied by the Corporation in respect of those Members who are Directors. Non-voting Members shall pay membership fees established and approved by the Board from time to time, which take into consideration the following criteria:
  - (a) the Corporation's need for stability of funding;
  - (b) the overall administrative costs of the Corporation's operations;
  - (c) fairness to all Non-voting Members;
  - (d) the desirability of accurately allocating expenses to activities;
  - (e) administrative ease; and
  - (f) the potential impact of membership fees on the applicants for membership in the Corporation.
9. A Director ceases to be a Member when such individual ceases to be a Director.
10. A Financial Services Provider or an Industry Association ceases to be a Member immediately by Special Resolution provided that the Member has been granted an opportunity to be heard at such meeting and, in the event of such removal of any of the

IDA, the IFIC or the MFDA, each of its members shall also cease to be a Member. Among other things, a persistent failure of a Member that is a Financial Services Provider or an Industry Association to pay its allocated membership fees to the Corporation shall be sufficient cause for removal. Upon the removal of a Member in accordance with this section, the Corporation shall cease to provide services to that Member and, in the case of an Industry Association, its members.

11. Any Member may resign from the Corporation by delivering to the Corporation a written resignation and lodging a copy of same with the Secretary of the Corporation. In the case of the resignation of the IDA, the IFIC or the MFDA in accordance with this section, its members shall also be deemed to have resigned. Upon the resignation of a Member in accordance with this section, the Corporation shall cease to provide services to that Member and, in the case of an Industry Association, its members.

### **MEETINGS OF MEMBERS**

12. The annual meeting or any special general meeting of the Members shall be held at the head office of the Corporation or at any place in Canada as the Board may determine and on such day as the Board shall appoint. The Voting Members may resolve that a particular meeting of Members be held outside Canada.
13. An annual meeting of the Members of the Corporation shall be held not later than eighteen (18) months after the incorporation of the Corporation and thereafter at least once in every calendar year and not more than fifteen (15) months after the holding of the last preceding annual meeting. At every annual meeting, in addition to any other business that may be transacted,
  - (a) the audited financial statements, the report of the Directors and the report of the auditors shall be presented to the Voting Members;
  - (b) the Voting Members shall acknowledge the appointment of the Industry Directors pursuant to paragraph 33(b) and section 36;
  - (c) the Voting Members shall elect the Independent Directors by Special Resolution pursuant to paragraph 33(c) and section 37; and
  - (d) the Voting Members shall appoint an auditor or auditors for the ensuing year and shall fix the remuneration of the auditor or auditors or authorize the Board to fix such remuneration.
14. The Board or the Chair shall have the power to call at any time a meeting of the Members of the Corporation. In addition, the Board or the Chair shall call a special general meeting of the Members on written requisition of Voting Members carrying not less than thirty-three (33) percent of the voting rights. Should the Board or the Chair fail to call such special general meeting within thirty (30) days of receipt of such requisition, any four (4) Voting Members may direct the Secretary to call such meeting.

15. A quorum shall consist of a majority of Voting Members present in person or by proxy provided that no less than two (2) Voting Members are present. Such majority shall consist of a total number of Voting Members who are Independent Directors that is greater than the total number of Voting Members who are Industry Directors present at the meeting. No business shall be transacted at any meeting of the Members unless a quorum is present at the commencement of and throughout the meeting.
16. Voting Members shall be given notice of any annual meeting or special general meeting of Members. Such notice may be sent by mail or by electronic means, such as e-mail or facsimile, provided that such electronic means generates a record of notice sent. Fourteen (14) days notice shall be given to each Voting Member in respect of any meeting of Members. Notice shall be given to each Voting Member who, at the close of business on the record date for notice, or if no record date for notice is fixed, at the close of business on the day preceding the day on which the notice is given, is entered in the register of Members. Notice of any meeting where special business will be transacted should contain sufficient information to permit each Voting Member to form a reasoned judgment on the decision to be taken. Notice of each meeting of Members must remind each Voting Member that he or she has the right to appoint and, where applicable, to vote by proxy. Both the Ombudsman and the auditor of the Corporation shall receive all notices and other communications relating to any meetings of Members that any Voting Member is entitled to receive. The statutory declaration of the Secretary or Chair that notice has been given in accordance with these By-laws shall be sufficient and conclusive evidence of the giving of such notice.
17. A meeting of Members may be held at any time and place without notice if all the Voting Members are present or if not present, either before or after the meeting, waive notice or otherwise consent to such meeting being held, and at such meeting any business may be transacted which the Corporation may transact at any meeting of Members.
18. Each Voting Member may, by means of a written proxy, appoint a proxyholder to attend and act at any annual meeting or special general meeting of Members in the manner and to the extent authorized by the proxy.
19. If all the Voting Members of the Corporation consent thereto generally or in respect of a particular meeting, a Voting Member may participate in any annual meeting or special general meeting or any adjourned meeting of the Members by such conference telephone facilities as permit all persons participating in the meeting to hear or otherwise communicate with each other, and a Voting Member participating in such a meeting by such means is deemed to be present at the meeting. Any such consent shall be effective whether given before or after the meeting to which it relates and may be given with respect to all meetings of the Members. Quorum shall be established and votes shall be recorded by voice or televisual identification of each Voting Member by a roll-call of Voting Members participating in the Meeting.
20. In addition to the manner of meeting provided for in section 19, the Voting Members may meet by any other electronic means that permits each Voting Member to communicate adequately with each other, provided that the Board has passed a resolution addressing the mechanics of holding such a meeting, including how security issues should be handled and the procedure for establishing quorum and recording votes. Each Voting

Member must have equal access to the specific means of communication to be used and each Voting Member must consent in advance to meeting by electronic means using the specific means of communication proposed for the meeting.

21. Any meeting of the Members may be adjourned to any time and from time to time and such business may be transacted at such adjourned meeting as might have been transacted at the original meeting from which such adjournment took place. No notice shall be required of any such adjournment. Such adjournment may be made notwithstanding that no quorum is present.
22. No error or omission in giving notice of any annual meeting or special general meeting or any adjourned meeting of the Members of the Corporation shall invalidate such meeting or make void any proceedings taken thereat and any Voting Member may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat. For the purpose of sending notice to any Voting Member, Director or officer for any meeting or otherwise, the address shall be the last address recorded on the books of the Corporation for the Voting Member, Director or officer.
23. A resolution in writing signed by all of the Voting Members is as valid as if it had been passed at a meeting of Members, provided that matters which are required by the Act to be dealt with at a meeting are excluded from this provision. Such resolution in writing may be signed by counterpart and satisfies all the requirements of the letters patent and by-laws relating to meetings of Members.

#### **SPECIAL GENERAL MEETINGS AND SPECIAL RESOLUTIONS**

24. A special general meeting of the Members shall be called by the Board, the Chair or the Secretary, pursuant to section 14, to address general matters and, in addition, may address the following specific matters that shall require determination by Special Resolution:
  - (a) the removal of an Industry Association or Financial Services Provider as a Member pursuant to section 10;
  - (b) the removal of a Director pursuant to paragraph 38(i);
  - (c) the election of an Independent Director pursuant to paragraph 33(c) and section 37 or paragraph 39(b);
  - (d) the confirmation of the Board's approval, repeal or amendment of any terms of reference pursuant to paragraph 54(d); and
  - (e) the confirmation of the Board's approval, repeal or amendment of any By-laws pursuant to section 96.
25. A special general meeting of Members shall be subject to the provisions set out for meetings of Members in the By-laws, provided that if such a meeting is called to address any matters requiring determination by Special Resolution pursuant to paragraphs 24(a)

through 24(e) inclusive, a quorum for such a meeting shall, in addition to the provisions for quorum described in section 15, consist of a majority of the total number of Voting Members who are also Industry Directors present in person or by proxy.

### **VOTING OF MEMBERS**

26. Only those Members who are Voting Members shall be entitled to vote.
27. Unless otherwise required by the Act, the Letters Patent, the By-laws or otherwise by law, at any meeting of the Members every question shall be determined by the majority of the votes of Voting Members duly cast on the question.
28. Each Voting Member present in person or by proxy shall at any meeting of the Members be entitled to one (1) vote on each question.
29. All votes at any meeting of the Members shall be decided by a show of hands unless:
  - (a) prior to a show of hands, a majority of the Voting Members present resolve to vote on the matter by secret ballot, in which case the Chair shall distribute and collect ballots for such purpose and the result of the vote by secret ballot shall be the decision of the Voting Members upon the said question; or
  - (b) after a show of hands, a poll thereon is required or demanded by the Chair or any Voting Member on the question, in which case the procedures set forth hereinafter shall be followed.
30. Whenever a vote by secret ballot or show of hands shall have been taken upon a question, (unless in the latter case a poll thereon is required or demanded by the Chair or any Voting Member), a declaration by the Chair that the vote upon the question has been carried or carried by a particular majority or not carried and an entry to that effect in the minutes of the meeting shall be *prima facie* evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against any resolution or other proceeding in respect of the said question, and such result of the vote so taken shall be the decision of the Voting Members upon the said question.
31. If a poll is required or demanded by the Chair or any Voting Member, the poll shall be taken in such manner as the Chair shall direct. A demand for a poll may be withdrawn at any time prior to the taking of the poll. The result of the poll shall be the decision of the Voting Members upon the said question.
32. In the case of an equality of votes of Voting Members at any meeting of Members, either upon a show of hands or upon a poll, the Chair shall not have a second or casting vote.

### **BOARD OF DIRECTORS**

33. The property and business of the Corporation shall be managed by a Board consisting of not fewer than eight (8) and not more than seventeen (17) directors, who shall be:

- (a) individuals of at least 18 years of age, with power under law to contract, who have submitted a membership application in a form accepted by the Board. No individual who has the status of a bankrupt or suspends payment or makes an arrangement with his or her creditors shall be a Director;
- (b) Industry Directors appointed as follows:
  - (i) as determined by the Board pursuant to section 34, either one (1) individual appointed by each of the board of directors of the IFIC and the board of directors of the MFDA or one (1) individual appointed collectively by the board of directors of the IFIC and the board of directors of the MFDA;
  - (ii) as determined by the Board pursuant to section 34, either one (1) individual or two (2) individuals appointed by the board of directors of the IDA,
  - (iii) as determined by the Board pursuant to section 34, either one (1) individual or two (2) individuals appointed by the executive council of the CBA after such consultations as the CBA determines are necessary with deposit-taking institutions that are Members of the Corporation, and
  - (iv) if the Board so determines pursuant to section 34, one (1) or more individuals, appointed by the board of directors or similar governing body of any other Financial Services Provider or Industry Association that is a Member or, collectively, by the boards of directors or similar governing bodies of any other group of Financial Services Providers or Industry Associations that are each a Member,

for terms described in section 36 or until their successors are appointed.

The appointment of any Industry Director shall be confirmed by a written communication to the Secretary from a representative of the executive council, board of directors or similar governing body of the Industry Association, Financial Services Provider or group of Financial Services Providers or Industry Associations that appointed the Industry Director and acknowledged by the Voting Members at each annual meeting of Members; and

- (c) Independent Directors numbering not fewer than five (5) and not more than nine (9) individuals as determined by the Board pursuant to section 34 who meet the eligibility criteria described in section 35, provided that:
  - (i) the minimum number of Independent Directors shall at all times be at least one (1) greater than the sum of the total number of the Industry Directors, subject to any short-term vacancy existing among the directorships allocated to Independent Directors; and
  - (ii) upon this By-Law No. 10 coming into effect and subject to any vacancy then existing among the directorships allocated to Independent Directors,

the current Independent Directors shall be those individuals listed as Independent Directors in the director's register contained in the minute book of the Corporation and, thereafter, their successors shall be elected by Special Resolution of the Voting Members from among candidates recommended by the Nominating Committee and approved by the majority of the Board for terms described in section 37. In the event of any vacancy exists among the directorships allocated to Independent Directors upon this By-Law No. 10 coming into effect, such vacancy may be filled by either a Special Resolution or by a written resolution signed by all the Voting Members in support of an individual or individuals recommended by resolution of the Independent Directors.

34. The Board shall determine the number of Industry Directors to be appointed pursuant to sub-paragraphs 33(b)(i) through 33(b)(iv), inclusive, and the Financial Services Provider or Industry Association or group of Financial Services Providers or Industry Associations, if any, that may appoint an Industry Director pursuant to sub-paragraph 33(b)(iv). In determining the number of Industry Directors to be appointed pursuant to sub-paragraphs 33(b)(i) through 33(b)(iii), inclusive, the Board shall have regard to the following:
- (a) the board of directors of the IDA and the executive council of the CBA shall be restricted to each appointing one individual as an Industry Director if the board of directors of the IFIC and the board of directors of the MFDA are restricted to collectively appointing one individual as an Industry Director, and vice versa; and
  - (b) the board of directors of the IDA and the executive council of the CBA may be permitted to each appoint two individuals as Industry Directors only if the board of directors of the IFIC and the board of directors of the MFDA are permitted to each appoint one individual as an Industry Director, and vice versa.

The Board shall determine the number of Independent Directors to be elected pursuant to paragraph 33(c) at any meeting of the Members. Such numbers will be fixed by the Board prior to such meeting. No resolution of the Board decreasing the number of Directors shortens the term of an incumbent Director.

35. The following eligibility criteria for the Independent Directors shall be applied at the time of their election or re-election:
- (a) individually, no Independent Director shall be:
    - (i) a current officer or employee of the Corporation or, in the two (2) years prior to election as an Independent Director, an officer or employee of the Corporation, provided that an individual shall not be disqualified from being elected as an Independent Director due to him or her holding or, in the two (2) years prior to election as an Independent Director, having held office as the Chair;
    - (ii) a current director, officer or employee of any Financial Services Provider that is a Member, or in the two (2) years prior to election as an

Independent Director, a director, officer or employee of any Financial Services Provider that is a Member;

- (iii) a current director, executive committee member, officer or employee of an Industry Association or, in the two (2) years prior to election as an Independent Director, a director, executive committee member, officer or employee of an Industry Association;
  - (iv) a current employee of a federal, provincial or territorial government, a current employee of an agency of the Crown in respect of such government or, in the two (2) years prior to election as an Independent Director, an employee of a federal, provincial or territorial government, an employee of an agency of the Crown in respect of such government;
  - (v) a current member of the Senate of Canada, member of Parliament or member of a provincial or territorial legislative assembly or, in the two (2) years prior to election as an Independent Director, a member of the Senate of Canada, member of Parliament or a member of a provincial or territorial legislative assembly;
  - (vi) an individual who provides goods or services to and receives direct significant compensation from, or an individual who is an employee or a partner of an entity that receives significant revenue from services the entity provides to, a Financial Services Provider that is a Member or is a member of an Industry Association, and for the purposes of this subparagraph, “significant revenue” and “significant compensation” means compensation or revenue the loss of which would have a material impact on the individual or entity; and
  - (vii) an individual who has a significant interest, as that term is defined by legislation governing federally regulated financial institutions, in a class of shares of a Financial Services Provider that is a Member or is a member of an Industry Association;
- (b) collectively, the Independent Directors shall, to the greatest extent possible, represent a diversity of experience and interests, including:
- (i) individuals known and respected on a regional and national basis, either in their own right or by virtue of an appointment or office held;
  - (ii) individuals with significant backgrounds in public and consumer affairs; and
  - (iii) individuals representative of the Canadian population, including gender, linguistic, minority, and geographic representation;
- (c) to ensure renewal of the Board, the Independent Directors’ Committee shall have regard to an appropriate balance between the desirability for continuity and experience on the Board and the desirability for renewal of the Board and may, in

appropriate circumstances, recommend to the Board and the Voting Members that a particular Independent Director be re-elected for a further term or terms of office; and

- (d) after considering the criteria in paragraphs (a) and (b), based on a standard that a reasonable person would apply, an Independent Director shall not, because of his or her current or previous experience and relationships, including spousal or common law relationships, be perceived to have a bias in favour of or against any Financial Services Provider.
36. The Industry Directors shall be appointed in the manner described in paragraph 33(b) and shall retire in rotation. At every annual meeting at which an Industry Director's term expires, the Financial Services Provider, Industry Association or group of Financial Services Providers or Industry Associations that appointed the Industry Director whose term has expired may reappoint the retiring Industry Director or appoint a new Industry Director, and each Industry Director so appointed or re-appointed shall hold office until the close of the third annual meeting after such Industry Director's appointment or re-appointment or for such other shorter term as the Board shall determine. If the Board determines by resolution to increase the number of Industry Directors pursuant to section 34 or if the Board determines that Industry Director(s) are to be appointed pursuant to subparagraph 33(b)(iv), the additional Industry Director or Industry Directors shall be appointed in the manner described in paragraph 33(b) to hold office for an initial term determined by the Board, which shall be for a term not longer than the fifth annual meeting of Members after the date of such Industry Director's appointment.
37. The Independent Directors shall be elected in the manner described in paragraph 33(c) and shall retire in rotation. At every annual meeting at which the term of an Independent Director expires, there shall be elected or re-elected, in the manner described in paragraph 33(c), a number of Independent Directors determined by the Board pursuant to section 34. Each Independent Director so elected or re-elected shall hold office until the close of the third annual meeting after such Independent Director's election or for such shorter term as the Board shall determine. An Independent Director whose term has expired shall be eligible for re-election as an Independent Director provided that the Independent Director continues to meet the eligibility criteria for Independent Directors set out in section 35 at the time of re-election. If the Board determines by resolution to increase the number of Independent Directors, the additional Independent Director or Independent Directors shall be elected in the manner described in paragraph 33(c) to hold office for an initial term determined by the Board, which shall be for a term not longer than the fifth annual meeting of the Members after the date of such Independent Director's election.
38. The office of Director shall be automatically vacated:
- (a) if a Director shall resign as such by delivering a written resignation to the Secretary of the Corporation;
  - (b) if the Director is found by a court to be of unsound mind;

- (c) if the Director becomes bankrupt or suspends payment or makes an arrangement with the Director's creditors;
  - (d) on the Director's death;
  - (e) if a Director fails to attend three (3) consecutive meetings of the Board, unless the Board passes a resolution permitting such Director to remain in office as a Director notwithstanding such absences;
  - (f) in the case of an Independent Director, where the Board by resolution of two-thirds (2/3rds) of Directors present at a meeting determines that an Independent Director no longer meets the eligibility criteria described in section 35;
  - (g) in the case of an Industry Director, on the winding-up or dissolution of the Member or Industry Association that appointed such Director or on delivery to the Secretary of a written notice of resignation by that Member;
  - (h) in the case of an Industry Director, the Member or Industry Association that appointed such Director is in default of payment of, or in ensuring payment of, their membership fees as determined in accordance with section 8, and such default has continued for six (6) months from the date that a payment was due; or
  - (i) if a Director is for any reason other than those described above in this section 38 removed from office for cause by Special Resolution.
39. If any vacancy shall occur for any reason, such vacancy shall continue until the number of Directors is determined by the Board pursuant to section 34 and thereafter, a Director shall be appointed or elected, as applicable, to fill the vacancy for the remainder of the term of the vacating Director, or for an initial term determined by the Board which shall be for a term not longer than the fifth annual meeting of Members after such Director's appointment, as follows:
- (a) if the vacancy relates to an Industry Director, by the board of directors or other similar governing body of the Financial Services Provider or Industry Association that is designated to appoint the Industry Director pursuant to paragraph 33(b), provided that if the Industry Director is to be appointed by a group of Financial Services Providers or Industry Associations pursuant to sub-paragraph 33(b)(iv), then collectively by the boards of directors or other similar governing bodies of such Financial Services Providers or Independent Associations; or
  - (b) if the vacancy relates to an Independent Director, by Special Resolution in support of an individual recommended by the Nominating Committee and approved by a majority of the Board.

### **MEETINGS OF THE BOARD**

40. The powers of the Directors may be exercised by resolution passed at a meeting of the Board at which a quorum is present. The presence of a majority of the number of

Directors in office from time to time – provided that such majority consists of a total number of Independent Directors greater than the total number of the Industry Directors present at the meeting – shall be necessary to constitute a quorum for the transaction of business at meetings of the Board. No business shall be transacted at any meeting of the Board unless a quorum is present at the commencement of and throughout the meeting. The Directors shall not appoint proxyholders to attend and act on their behalf at any meeting of the Directors. Where there is a vacancy on the Board, a majority of the remaining Directors, unless the By-laws otherwise require, may exercise all the powers of the Board, provided that no less than fifty percent (50%) of the Directors are present and such majority constitutes a total number of Independent Directors greater than the sum of the total number of the Industry Directors.

41. Meetings of the Board may be held at any time and place to be determined by the Directors or the Chair, provided that notice of such meeting is given to all Directors. Such notice may be sent by mail or electronic means, such as e-mail or facsimile, provided that such electronic means generates a record of notice sent. Fourteen (14) days notice shall be given to each Director in respect of any meeting of Directors. The Ombudsman shall receive all notices and other communications relating to any meetings of Directors that any Director is entitled to receive. There shall be at least four (4) meetings of the Board in each financial year. No error or omission in giving notice of any meeting of the Board or any adjourned meeting of the Board shall invalidate such meeting or make void any proceedings taken thereat and any Director may at any time waive notice of any such meeting and may ratify, approve and confirm any or all proceedings taken or had thereat.
42. A meeting of the Board may be held at any time and place without notice if all Directors who are present or if those who are not present, either before or after the meeting, waive notice or otherwise consent to such meeting being held, and at such meeting any business may be transacted which the Corporation may transact at a meeting of the Board, provided that a quorum of the Board is present.
43. Any meeting of the Board may be adjourned to any time and from time to time and such business may be transacted at such adjourned meeting as might have been transacted at the original meeting from which such adjournment took place and such adjournment may be made providing a quorum is present. Notice of an adjourned meeting of the Board is not required if the time and place of the adjourned meeting is announced at the original meeting.
44. Subject to the Act, the Letters Patent and the By-laws, any question arising at any meeting of the Board shall be decided by a majority of votes. Each Director is entitled to exercise one (1) vote. All votes at any such meeting shall be taken by a show of hands in the usual manner of assent or dissent. Whenever a vote by show of hands shall be taken upon a question, a declaration by the Chair that a resolution has been carried and an entry to that effect in the minutes shall be admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution, and the result of the vote so taken shall be the decision of the Board upon the said question. Voting by proxy is prohibited.

45. In the case of an equality of votes at any Board meeting, the Chair shall not have a second or casting vote.
46. A resolution in writing, signed by all the Directors entitled to vote on that resolution at a meeting of Directors or committee of Directors, is as valid as if it had been passed at a meeting of Directors or committee of Directors, provided that matters which are required by the Act to be dealt with at a meeting are excluded from this provision. Such resolution in writing may be signed by counterpart and satisfies all the requirements of the letters patent and by-laws relating to meetings of Directors or committees of Directors.
47. If all the Directors of the Corporation consent thereto generally or in respect of a particular meeting, a Director may participate in a meeting of the Board or of a committee of the Board by means of such conference telephone facilities as permit all persons participating in the meeting to hear or otherwise communicate with each other, and a Director participating in such a meeting by such means is deemed to be present at the meeting. Quorum shall be established and votes shall be recorded by voice or televisual identification of each Director by a roll-call of Directors participating in the meeting.
48. In addition to the manner of meeting provided for in section 47, the Board may meet by any other electronic means that permits each Director to communicate adequately with each other, provided that the Board has passed a resolution addressing the mechanics of holding such a meeting, including how security issues should be handled, the procedure for establishing quorum and recording votes. Each Director must have equal access to the specific means of communication to be used and each Director must consent in advance to meeting by electronic means using the specific means of communication proposed for the meeting.
49. A retiring Director shall remain in office until the dissolution or adjournment of the meeting at which the retirement of the Director is accepted and the successor to the Director is appointed.
50. The Board may appoint such agents and engage such employees as the Board shall deem necessary from time to time and such persons shall have such authority and shall perform such duties as shall be prescribed by the Board at the time of such appointment.
51. The Independent Directors shall be paid such remuneration as may be decided from time to time by resolution of the Voting Members at any annual meeting or special general meeting of the Members.
52. It shall be the duty of every Director of the Corporation who is in any way, whether directly or indirectly, interested in a contract or arrangement or proposed contract or arrangement with the Corporation to declare such interest and to refrain from voting thereon in accordance with the Act.

## **POWERS OF THE BOARD**

53. The Board may administer the affairs of the Corporation in all things. The Board may make or cause to be made for the Corporation, in its name, any kind of contract which the Corporation may lawfully enter into and, save as hereinafter provided, generally may exercise all such other powers and do all such other acts and things as the Corporation is by its charter or otherwise authorized to exercise and do.
54. The Board shall:
- (a) appoint the CEO, one (1) or more Deputy Ombudsmen, the Secretary and the Treasurer in accordance with section 70 and such other officers as the Board shall from time to time determine;
  - (b) appoint the Ombudsman in accordance with section 71;
  - (c) appoint the Chair in accordance with section 72;
  - (d) provide the Ombudsman with general guidance in carrying out the duties of the Ombudsman and, in respect thereof, may review and approve, amend or repeal, terms of reference for the Ombudsman, which approval, amendment or repeal shall be submitted to the Voting Members for confirmation by Special Resolution pursuant to paragraph 24(d);
  - (e) approve a business plan, including a budget, for the Corporation and update such plan at least annually;
  - (f) establish and approve membership fees payable by the Non-voting Members in accordance with section 8; and
  - (g) review and approve, amend or repeal a code of conduct for the Corporation.
55. Neither the Board nor any Director shall:
- (a) consider a request to hear an appeal from any recommendation made by the Ombudsman to a complainant;
  - (b) seek the identity of any complainant who has made an inquiry or complaint to the Ombudsman;
  - (c) seek information relating to any inquiry or complaint to the Ombudsman other than that contained in any complaint register maintained by the Corporation;
  - (d) make any representation relating to an inquiry or a complaint to a Non-voting Member or a complainant; or
  - (e) act on any information received that reveals the identity of a complainant or any information described in subparagraphs (b) or (c) above,

provided that the Chair, another officer, an employee or legal counsel of the Corporation may advise a complainant about the Board's limitations described in this section and provided further that the Chair may at his or her discretion consider a complaint from a complainant regarding the Corporation's complaint-handling procedures and the conduct of any employee or officer of the Corporation throughout the complaint-handling process and may refer such a complaint for consideration to the Board or any committee of the Board.

56. The Chair shall be provided with a copy of any complaint addressed to a Director or the Board or of any complaint that a complainant has requested be forwarded to, reviewed by or appealed to the Board.
57. The Board shall have power to authorize expenditures on behalf of the Corporation from time to time and may delegate by resolution to an officer or officers of the Corporation the right to authorize payment of the day-to-day expenditures of the Corporation, to enter into any contract on behalf of the Corporation in the usual and ordinary course of the Corporation's business, to employ employees and agents, and to fix a reasonable remuneration for all officers, agents and employees and committee members or consultation groups.
58. The Board shall have the power to enter into a trust arrangement with a trust company for the purpose of creating a trust fund in which the capital and interest may be made available for the benefit of promoting the interest of the Corporation in accordance with such terms as the Board may prescribe.
59. The Board shall see that all necessary books and records of the Corporation required by the By-laws of the Corporation or by any applicable statute or law, including without limitation, the minutes of meetings of the Board and of committees of the Corporation, are regularly and properly kept and made available for viewing to all Voting Members and Directors.
60. The Board has the power to create, amend and repeal policies, rules and regulations with respect to procedural matters affecting the Corporation, provided that such policies, rules and regulations are neither covered in the By-laws nor in contravention of the Act. In accordance with the Act, the policies, rules and regulations shall not include provisions concerning any one or more of the following matters:
  - (a) conditions of membership, including societies or companies becoming members of the Corporation;
  - (b) mode of holding meetings, provision for quorum, rights of voting and of enacting by-laws;
  - (c) mode of repealing or amending by-laws;
  - (d) appointment and removal of directors, trustees, committees and officers, and their respective powers and remuneration;
  - (e) audit of accounts and appointment of auditors;

- (f) how a Member may resign from the Corporation; or
- (g) custody of the corporate seal and certifying documents issued by the Corporation.

### COMMITTEES

61. The Board may from time to time constitute such committee or committees of the Corporation as it deems necessary, for such purposes and with such powers as may be prescribed by the Board. The Board may fix any remuneration to be paid, if any, to members of any committee. Such committees may include an Audit Committee the duties of which, among other duties assigned by the Board from time to time, may be to:
- (a) review the audited annual financial statements of the Corporation before they are submitted to the Board for approval;
  - (b) meet with the auditor or auditors to discuss the financial statements of the Corporation, or any other matter;
  - (c) conduct an annual review of the types and amounts of insurance to be carried by the Corporation and advise the Board thereon;
  - (d) consider and review the scope of an external audit performed or to be performed in respect of the annual financial statements of the Corporation and other matters;
  - (e) review a candidate or slate of candidates for appointment as the Auditor of the Corporation and to recommend a candidate to the Members of the Corporation; and
  - (f) provide direction to the Chair and the CEO to implement and maintain appropriate internal control procedures, including determining how security issues should be handled pursuant to sections 20 and 48 and the review, evaluation and approval of such procedures.
62. Any member of any committee shall be removable from such committee at any time at the discretion of the Board.
63. The presence of a majority of committee members – provided that, except in respect of the Independent Directors’ Committee and the Nominating Committee, such majority consists of a total number of those committee members who are Independent Directors greater than the sum of the total number of those committee members who are Industry Directors present at the meeting – shall be necessary to constitute a quorum for the transaction of business at committee meetings. No business shall be transacted at any committee meeting unless a quorum is present at the commencement of and throughout the meeting.
64. The chair of each committee of the Corporation shall be the individual selected from among the members of the committee by a majority vote of the members of the

committee, provided that the Chair shall act as the chair of the Independent Director's committee and of the Nominating Committee.

65. Each committee of the Corporation may formulate its own rules of procedure subject to such regulations and/or directions as the Board may from time to time make in respect thereof. Committees may meet for the transaction of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting of a committee shall be decided by a majority of votes.

### **INDEPENDENT DIRECTORS' COMMITTEE**

66. The Board shall appoint an Independent Directors' Committee, composed of all the Independent Directors of the Corporation.
67. Any member of the Independent Directors' Committee shall be removable from such committee at any time by resolution of the Board, provided that such resolution receives the affirmative vote of at least two-thirds (2/3rds) of the remaining Independent Directors.
68. The duties of the Independent Directors' Committee shall include, among other duties assigned by the Board from time to time:
  - (a) the review of the proposed budget of the Corporation prior to approval by the Board;
  - (b) the review of the Chair's report on the remuneration and benefits of officers, agents and employees and committee members annually prior to the Board's approval of the budget for the next financial year and the committee shall report to the Board on the review;
  - (c) the development of terms of reference, if any, for the Ombudsman and any amendment thereto for recommendation to the Board for review and approval pursuant to paragraph 54(d);
  - (d) the development of a code of conduct, if any, for the Corporation and any amendment thereto for recommendation to the Board for approval; and
  - (e) the performance of the duties of a Nominating Committee the duties of which, among other duties assigned by the Board from time to time, may be to:
    - (i) review appropriate candidates for appointment as Independent Directors and to recommend a candidate or a slate of such candidates to the Board pursuant to paragraphs 33(c) and 39(b) and sections 35 and 37;
    - (ii) review a slate of candidates for appointment as the Ombudsman of the Corporation and to recommend a candidate or a slate of such candidates to the Board; and

- (iii) review a slate of candidates for appointment as officers of the Corporation and to recommend a candidate or a slate of such candidates to the Board.

### **OFFICERS**

- 69. The officers of the Corporation shall be an Ombudsman, a Chair, a CEO, one (1) or more Deputy Ombudsmen, a Secretary, a Treasurer and any such other officers with such duties and level of seniority as the Board may by resolution determine. Any two offices may be held by the same person, who need not be a Director, except as otherwise specifically provided in the Corporation's by-laws.
- 70. Upon this By-Law No. 10 coming into effect, the current officers of the Corporation shall be those persons listed in the officers' register contained in the minute book of the Corporation and, thereafter, all officers shall be appointed from time to time by the CEO, except that the Ombudsman, the Chair, the CEO, the Deputy Ombudsmen, the Secretary and the Treasurer shall be appointed by resolution of the Board.
- 71.
  - (a) The Board shall appoint an individual who meets the eligibility criteria set out in paragraph (b) as the Ombudsman on the recommendation of the Independent Directors' Committee on terms and at a remuneration to be decided by the Board to hold office during good behaviour for a term not to exceed five (5) years. The Ombudsman shall not be a Director of the Corporation. The Ombudsman may hold or have held other offices of the Corporation. Subject to the terms of any employment contract, the Ombudsman may be re-appointed on the expiration of his or her term of office. The Ombudsman may be removed with or without cause at any time by a resolution passed by a vote of a majority of the Board, provided that such vote includes a majority of Independent Directors; and
  - (b) At the time of the appointment or re-appointment of the Ombudsman, the Ombudsman shall not be:
    - (i) a current director, officer or employee of any Financial Services Provider that is a Member, or in the five (5) years prior to appointment as Ombudsman, a director, officer or employee of any Financial Services Provider that is a Member;
    - (ii) a current director, executive committee member, officer or employee of an Industry Association or, in the five (5) years prior to appointment as Ombudsman, a director, executive committee member, officer or employee of an Industry Association;
    - (iii) a current employee of a federal, provincial or territorial government, a current employee of an agency of the Crown in respect of such government or, in the five (5) years prior to appointment as Ombudsman, an employee of a federal, provincial or territorial government, an employee of an agency of the Crown in respect of such government;

- (iv) a current member of the Senate of Canada, member of Parliament or member of a provincial or territorial legislative assembly or, in the five (5) years prior to appointment as Ombudsman, a member of the Senate of Canada, member of Parliament or a member of a provincial or territorial legislative assembly;
  - (v) an individual who provides goods or services to and receives direct significant compensation from, or an individual who is an employee or a partner of an entity that receives significant revenue from services the entity provides to, a Financial Services Provider that is a Member or is a member of an Industry Association, and for the purposes of this subparagraph, “significant revenue” and “significant compensation” means compensation or revenue the loss of which would have a material impact on the individual or entity;
  - (vi) an individual who has a significant interest, as that term is defined by legislation governing federally regulated financial institutions, in a class of shares of a Financial Services Provider that is a Member or is a member of an Industry Association; and
  - (vii) perceived to have a bias in favour of or against any Financial Services Provider, after considering the criteria in subparagraphs (i) to (vi), based on a standard that a reasonable person would apply, because of his or her current or previous experience and relationships, including spousal or common law relationships.
72. The Chair shall be an individual appointed on the recommendation of the Independent Directors’ Committee from among the Independent Directors by resolution of the Board at the first meeting of the Board following the annual meeting of Members at which the directors are appointed.
73. The officers of the Corporation, other than the Ombudsman, the CEO and employees of the Corporation, shall hold office for one (1) year from their date of appointment or until their successors are appointed in their stead.
74. The Treasurer and the Secretary shall be subject to removal by resolution of the Board at any time with or without cause.

### **DUTIES OF OFFICERS**

75. The principal powers and duties of the Ombudsman shall be determined from time to time by the Board and shall be set out in the terms of reference adopted by the Board and confirmed by the Voting Members.
76. The Chair shall preside at all meetings of the Members and of the Board. The Chair shall see that all orders and resolutions of the Board are carried into effect. The Chair shall review the remuneration and benefits of officers, agents and employees and committee members annually prior to the Board’s approval of the budget for the next fiscal year and

shall report to the Independent Directors Committee on the review. The Chair shall have such other powers and shall perform such other duties as may from time to time be assigned to the Chair by resolution of the Board or as are incidental to the office.

77. In the event that the Chair is not present within fifteen (15) minutes from the time fixed for holding any meeting at which the Chair presides, an individual shall be appointed to preside at the meeting in the place and stead of the Chair as follows:
  - (a) in the case of a Board meeting, by the Directors who are present at the meeting from among the Independent Directors who are present at the meeting;
  - (b) in the case of a meeting of Members, by the Voting Members who are present at the meeting from among the Voting Members who are also Independent Directors who are present at the meeting; and
  - (c) in the case of a committee meeting, by the committee members who are present at the meeting and are entitled to vote at the meeting from among the committee members who are also Independent Directors who are present at the meeting.
78. The CEO shall have responsibility for the general and active management of the affairs of the Corporation and shall perform such other duties as may from time to time be assigned to the CEO by resolution of the Board or as are incidental to the office.
79. A Deputy Ombudsman shall have such duties and responsibilities as may be required of him or her from time to time by the Board and shall report to the Ombudsman.
80. The Treasurer shall have the custody of the funds and securities of the Corporation and shall keep full and accurate accounts of all assets, liabilities, receipts and disbursements of the Corporation in the books belonging to the Corporation and shall deposit all monies, securities and other valuable effects in the name and to the credit of the Corporation in such chartered bank, or trust company or, in the case of securities, in such registered dealer in securities as may be designated by the Board from time to time. The Treasurer shall disburse the funds of the Corporation as may be directed by proper authority taking proper vouchers for such disbursements, and shall render to the Chair and directors at any meeting of the Board, or whenever they may require it, an accounting of all the transactions and a statement of the financial position of the Corporation. The Treasurer shall also perform such other duties as may from time to time be directed by the Board.
81. The Secretary may be empowered by the Board, on resolution of the Board, to carry on the affairs of the Corporation generally under the supervision of the officers thereof and shall attend all meetings and act as clerk thereof and record all votes and minutes of all proceedings in the books to be kept for that purpose. The Secretary shall give or cause to be given notice of all meetings of the Members, of the Board and of committees, and shall perform such other duties as may be prescribed by the Board or the Chair under whose supervision the Secretary shall be. The Secretary shall be custodian of the seal of the Corporation, which the Secretary shall deliver only when authorized by a resolution of the Board to do so and to such person or persons as may be named in the resolution.

82. The duties of all other officers of the Corporation shall be such as the terms of their engagement call for or the Board requires of them.

### **INDEMNITIES TO DIRECTORS AND OTHERS**

83. No Director or officer of the Corporation shall be liable for the acts, receipts, neglects or defaults of any other Director or officer or employee, or for joining in any receipt or other act for conformity, or for any loss, damage or expense happening to the Corporation through the insufficiency or deficiency of title to any property acquired by order of the Board for or on behalf of the Corporation, or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Corporation shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or corporation with whom or which any of the monies, securities or effects of the Corporation shall be lodged or deposited, or for any loss occasioned by any error of judgment or oversight on such Director or officer's part, or for any other loss, damage or misfortune whatever, which may happen in the execution of the duties of such Director's or officer's office or in relation thereto unless the same are occasioned by such Director's or officer's own willful neglect or default.
84. Every Director and officer of the Corporation and his or her heirs, executors, administrators, and estate and effects, respectively, shall from time to time and at all times, be indemnified and saved harmless out of the funds of the Corporation, from and against:
- (a) all costs, charges and expenses whatsoever that such Director sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him or her, for or in respect of any act, deed, matter or thing whatever, made, done or permitted by him or her, in or about the execution of the duties of his or her office; and
  - (b) all other costs, charges and expenses that he or she sustains or incurs, in or about or in relation to the affairs of the Corporation,
- except such costs, charges or expenses as are occasioned by his or her own willful neglect or default.
85. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Corporation in advance of the final disposition of the action, suit, or proceeding as authorized by the Board in the specific case upon receipt of an undertaking by or on behalf of the Director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the Corporation.
86. The indemnification herein provided shall not be deemed exclusive of any other rights to which a person seeking indemnification may be entitled under the Letters Patent or these By-laws or any agreement, vote of the Members or disinterested Directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding any office with the Corporation, and shall continue as to a person who has ceased

to be a Director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

87. The Board may authorize the purchase of such directors' and officers' insurance or any other insurance as it deems necessary or advisable to be paid for out of the funds of the Corporation.

### **EXECUTION OF DOCUMENTS**

88. The following are the only persons authorized to sign any document on behalf of the Corporation, other than in the usual and ordinary course of the Corporation's business:
- (a) any two (2) Directors or officers of the Corporation, provided that no individual shall execute, acknowledge, or verify any instrument in more than one capacity; or
  - (b) any individual or individuals appointed by resolution of the Board to sign a specific document or that type of document or generally on behalf of the Corporation.

Any document so signed may, but need not, have the corporate seal applied.

89. The signatures of any person authorized to sign on behalf of the Corporation may, if specifically authorized by resolution of the Board, be written, printed, stamped, engraved, lithographed or otherwise mechanically reproduced. Anything so signed shall be as valid as if it had been signed manually, even if that person has ceased to hold office when anything so signed is issued or delivered, until revoked by resolution of the Board.
90. The banking business of the Corporation shall be transacted with such banks, trust companies or other financial institutions as may from time to time be designated by or under the authority of the Board. Such banking business or any part of it shall be transacted under such agreements, instructions and delegations of powers as the Board may, from time to time, prescribe or authorize.
91. The securities of the Corporation may be deposited, from time to time, for safekeeping with one or more banks, trust companies or other financial institutions to be selected by the Board or, if so authorized by the Board, with such other depositories or in such other manner as may be determined from time to time by the Board. Any and all securities so deposited may be withdrawn, from time to time, only upon the written order of the Corporation signed by such Director or Directors, officer or officers, agent or agents of the Corporation, and in such manner as shall from time to time be determined by resolution of the Board and such authority may be general or confined to specific instances. Any institution so selected as custodian by the Board shall be fully protected in acting in accordance with the directions of the Board and shall in no event be liable for the due application of the securities so withdrawn from deposit or the proceeds thereof.

## **AUDITORS**

92. At each annual meeting, the Voting Members shall appoint one (1) or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office will continue in office until a successor is appointed. The Directors may fill any casual vacancy in the office of auditor, but while the vacancy continues, the surviving or continuing auditor, if any, may act. A person other than a retiring auditor is not capable of being appointed auditor at such a meeting unless the notice requirements of the Act have been met.
93. The responsibilities of the auditor or auditors shall be:
- (a) to audit the financial statements of the Corporation; and
  - (b) to report to the Voting Members at each annual meeting on whether the financial statements of the Corporation are fairly presented in accordance with generally accepted accounting principles.
94. The auditor shall not be a director, officer or employee, or associated with a director, officer or employee, of either the Corporation or of an affiliated corporation, unless all the Voting Members have unanimously consented.
95. The remuneration of an auditor appointed by the Voting Members shall be fixed by the Voting Members or by the Board if it is authorized to do so by the Voting Members, and the remuneration of an auditor appointed by the Board shall be fixed by the Board.

## **AMENDMENT OF BY-LAWS**

96. The By-laws of the Corporation not embodied in the Letters Patent may be repealed or amended by By-law enacted by a majority of the Directors at a meeting of the Board and confirmed by an affirmative vote of at least two-thirds (2/3rds) of the Voting Members at a meeting duly called for the purpose of considering the said By-law, provided that the repeal or amendment of any By-law relating to the subject matter of subsection 155(2) of the Act shall not be enforced or acted on until the approval of the Minister of Industry, Canada has been obtained.

## **RESIGNATION FEES**

- 96A. In the event that a Non-voting Member resigns, it shall pay to the Corporation, in addition to any amounts that may be paid by such Non-voting Member to the Corporation in respect of disputes involving such Non-voting Member, following such Non-voting Member's resignation, an amount equal to six months' membership fees for such Non-voting Member, as determined in accordance with the Corporation's funding cost allocation effective on and as at the effective date of such Non-voting Member's resignation. Such amount shall be held or used by the Corporation to pay for, satisfy and discharge any and all costs, expenses and liabilities arising from, relating to or in connection with the resignation of the Non-voting Member or any restructuring,

downsizing, reorganization, asset disposition, winding-up, liquidation, appointment of a liquidator, provisional liquidator, trustee, interim receiver or receiver, or dissolution of the Corporation, whether pursuant to applicable legislation or otherwise. In the event of the sale of all or substantially all of the assets, whether pursuant to applicable legislation or otherwise, winding-up, liquidation, appointment of a trustee, interim receiver or receiver, or dissolution of the Corporation, each Non-voting Member shall be deemed to have resigned for the purpose of this Section 96A and shall pay the amount described above.

### **COMING INTO FORCE**

97. Following the approval of this By-law No. 10 by the Voting Members and the Minister of Industry, Canada, this By-law shall come into force on the date that it is approved by the Minister of Industry, Canada.

**IN WITNESS WHEREOF** we have hereunto set our hands at the City of Toronto, in the Province of Ontario, as of the 3<sup>rd</sup> day of December, 2002.

---

Chair – Dr. Peggy-Anne Brown

---

Secretary – Robert Elliott

### **CERTIFICATE**

I, the duly appointed Secretary of the Corporation, hereby CERTIFY that this By-law No. 10 was enacted by the Directors of the Corporation as of December 3<sup>rd</sup>, 2002 and was confirmed by the Members of the Corporation as of December 3<sup>rd</sup>, 2002.

---

Secretary – Robert Elliott