

BY-LAW NO. 1 – GENERAL BY-LAW

being a by-law relating generally to the transaction of the affairs of

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

**ARTICLE 1
DEFINITIONS**

1.1 **Definitions.** In this By-law No. 1 and in all other By-laws of the Corporation hereafter passed unless the context otherwise requires:

- (a) “**Act**” means the *Canada Not-for-profit Corporations Act*, S.C. 2009, c. C-23 including the regulations made pursuant thereto, and any statute or regulations that may be substituted therefor, as amended from time to time;
- (b) “**Affiliate**” means, with respect to a body corporate, an affiliated body corporate within the meaning of the Act;
- (c) “**Annual Financial Statements**” means the comparative financial statements of the Corporation, as prescribed by the Act, the report of the Public Accountant and any further information respecting the financial position of the Corporation and the results of its operations required by the Articles or the By-laws;
- (d) “**Annual Meeting**” means an Annual Meeting of General Members of the nature described in section 5.2;
- (e) “**Annual Organizational Meeting**” means first meeting of the Board held immediately following each Annual Meeting for the purpose of appointing Officers;
- (f) “**Articles of Continuance**” means the Articles of Continuance continuing the Corporation under the Act, as amended and supplanted from time to time by restated articles;
- (g) “**Bank Act**” means the *Bank Act* (Canada), S.C. 1991, c. 46, as amended;
- (h) “**Board**” means the Board of Directors of the Corporation;
- (i) “**By-laws**” means this by-law and all other by-laws of the Corporation from time to time in force and effect;
- (j) “**CEO**” means the Chief Executive Officer of the Corporation;

- (k) “**Chair**” means the Chair of the Board;
- (l) “**Community Directors**” means the directors elected pursuant to paragraph 6.5(b) together with paragraph 6.7(f);
- (m) “**Corporation**” means the corporation continued as a corporation without share capital under the Act that is, as of the effective date of this By-law No. 1, named “Ombudsman for Banking Services and Investments” in the English form and “Ombudsman des services bancaires et d’investissement” in the French form;
- (n) “**Declared Incapable**” means:
 - (i) an individual who has been declared to be incapable by a court of competent jurisdiction; or
 - (ii) an individual for whom the Corporation has obtained a letter from a physician who is licensed to practice medicine in one or more of the provinces or territories of Canada, declaring such individual incapable of managing property;
- (o) “**Director**” means a Director of the Corporation;
- (p) “**Financial Services Providers**” means, collectively, domestic or foreign financial institutions or other Persons that directly or indirectly provide financial products and services to customers in Canada, and “**Financial Service Provider**” means any one of the aforementioned Financial Service Providers;
- (q) “**General Members**” means those Members referred to in section 3.1;
- (r) “**Independence Matter**” means a matter regarding:
 - (i) the appointment or removal of the Ombudsman;
 - (ii) the compensation of the Ombudsman;
 - (iii) the adoption and amendment of terms of reference for the Ombudsman;
 - (iv) the approval of the Corporation’s budget;
 - (v) nomination of individuals for election as Community Directors; and
 - (vi) any other matter that the Directors may, from time to time, determine, by way of an Ordinary Resolution, should be treated as an Independence Matter for the purpose of this By-law No. 1 on the basis that such matter is material to the independence of the Corporation;
- (s) “**Industry Directors**” means the directors elected pursuant to paragraph 6.5(a) together with paragraph 6.7(a);

- (t) **“Industry Entities”** mean, collectively, the Investment Industry Regulatory Organization of Canada (**“IIROC”**), the Mutual Fund Dealers Association of Canada (**“MFDA”**), and any other self-regulatory organization that becomes a Member and that requires its members to participate in the ombudservice provided by the Corporation, and their respective successors, and, **“Industry Entity”** means any one of the aforementioned Industry Entities;
- (u) **“Industry Members”** means those Members referred to in section 3.3;
- (v) **“Members”** means the General Members and the Industry Members and **“Member”** means any one of them;
- (w) **“Officer”** means the Chair, the Vice-chair, the CEO, the Ombudsman, the Treasurer, the Secretary, or any other individual designated as an officer by the Board or who performs functions for the Corporation similar to those normally performed by an individual occupying any of the aforementioned offices;
- (x) **“Ordinary Resolution”** means a resolution passed by a majority of the votes cast on that resolution;
- (y) **“Ombudsman”** means the Ombudsman of the Corporation;
- (z) **“Person”** means an individual, a body corporate, a partnership, a trust, a joint venture or an unincorporated association or organization;
- (aa) **“Public Accountant”** means the Person appointed pursuant to section 13.1 from time to time;
- (bb) **“Secretary”** means the Secretary of the Corporation;
- (cc) **“Special Meeting”** means a meeting of the Members other than an Annual Meeting; and
- (dd) **“Treasurer”** means the Treasurer of the Corporation.

ARTICLE 2 GENERAL

2.1 **Interpretation.** In this By-law No. 1 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*. The division of this By-law No. 1 into Articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation hereof. Unless otherwise provided, each reference to an Article or a section is to the corresponding article or section hereof. Whenever the words “include”, “includes” or “including” are used in this By-law No. 1 and in all other By-laws hereafter passed, unless the context otherwise requires, such words shall be deemed in each instance to be followed by the words “without limitation.”

2.2 **Financial Year.** Unless otherwise approved by the Board, the financial year-end of the Corporation shall be October 31.

2.3 **Registered Office.** Until changed in accordance with the Act, the registered office of the Corporation shall be in the Province of Ontario.

ARTICLE 3 MEMBERS

3.1 **General Members - Composition.** Upon this By-law No. 1 coming into effect and at any time thereafter, the General Members of the Corporation shall comprise the individuals who are then the current Directors of the Corporation that have been admitted to membership pursuant to section 3.6.

3.2 **General Members - Privileges.** General Members shall be entitled to receive notice of and attend all meetings of the General Members and to vote on all matters on which members of a corporation are entitled to vote under the Act, including those specified in section 5.2.

3.3 **Industry Members – Composition.** Upon this By-law No. 1 coming into effect and at any time thereafter, subject to sections 3.9 and 3.10, the Industry Members shall comprise the following Industry Entities and Financial Services Providers that are or become Members pursuant to section 3.6:

- (a) any bank, federal credit union and authorized foreign bank listed in Schedules I, II or III of the Bank Act;
- (b) any federal trust or loan company incorporated or continued under the *Trust and Loan Companies Act* (Canada), S.C. 1991, c. 45, as amended;
- (c) any cooperative credit association, cooperative retail association or credit union central incorporated or continued under provincial, territorial or federal legislation;
- (d) any Canadian trust or loan company incorporated or continued under provincial or territorial trust and loan companies legislation;
- (e) any Canadian credit union or caisses populaire incorporated under provincial or territorial credit union and caisse populaire legislation;
- (f) any Industry Entity;
- (g) any investment dealer, as such term is defined in National Instrument 31-103;
- (h) any mutual fund dealer, as such term is defined in National Instrument 31-103;
- (i) any Canadian or foreign investment fund manager, as such term is defined in National Instrument 31-103;

- (j) any portfolio manager, as such term is defined in National Instrument 31-103;
- (k) any exempt market dealer, as such term is defined in National Instrument 31-103;
- (l) any scholarship plan dealer, as such term is defined in National Instrument 31-103;
- (m) any international adviser, as such term is defined in National Instrument 31-103, that provides financial products or services to customers in Canada pursuant to an exemption from registration requirements under applicable securities legislation;
- (n) any international dealer, as such term is defined in National Instrument 31-103, that provides financial products or services to customers in Canada pursuant to an exemption from registration requirements under applicable securities legislation; and
- (o) any other self-regulatory organization or Financial Services Provider.

For greater clarity, each Financial Services Provider that is a member of an Industry Entity that is an Industry Member and that requires the Financial Services Provider to have its client complaints dealt with by the Corporation is an Industry Member so long as such Industry Entity remains an Industry Member. Where an Industry Entity that is an Industry Member resigns, is removed or otherwise has its membership in the Corporation terminated, any member of such Industry Entity may continue to be an Industry Member so long as that member of the Industry Entity applies for membership in the Corporation and, where required by section 3.6, that application is approved by the CEO.

3.4 Industry Members – Privileges. Industry Members shall not be entitled to receive notice of, to attend or to vote at meetings of Members, except as otherwise required or permitted by the Act or the By-laws of the Corporation.

3.5 Industry Members - Eligibility. In order to be eligible to be an Industry Member, a Financial Services Provider must provide an internal complaint-handling process for its clients.

3.6 Member Application. A Person must apply for membership in the Corporation to become a Member. 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 a Financial Services Provider that is a member of an Industry Entity that requires the Financial Services Provider to have its client complaints dealt with by the Corporation, which Financial Services Provider shall be deemed to have applied for membership in the Corporation upon the Industry Entity of which it is a member submitting an application to the Secretary of the Corporation in a form acceptable to the Secretary.

Subject to sections 3.5, 3.9 and 3.10, a Person that has applied for membership in the Corporation shall become a Member:

- (a) in the case of a Person who is a Director, effective upon the date of such Director's election to the Board;
- (b) in the case of IIROC and MFDA, and their respective successors, effective upon the date that the Industry Entity's application for membership in the Corporation is received by the Secretary;
- (c) in the case of a Financial Services Provider that is a member of an Industry Entity that requires the Financial Services Provider to participate in the ombudservice provided by the Corporation, effective upon the date that the Industry Entity becomes a Member;
- (d) in the case of a Financial Services Provider that is not a member of an Industry Entity or that is a member of an Industry Entity that does not require the Financial Services Provider to participate in the ombudservice provided by the Corporation, effective upon (i) the date that the application for membership in the Corporation submitted by that Financial Services Provider is approved by the CEO, or (ii) if that Financial Services Provider is required by law to participate in the ombudservice provided by the Corporation or to be a Member, effective upon the date that that Financial Services Provider is required by law to participate in the ombudservice provided by the Corporation or be a Member; and
- (e) in the case of a self-regulatory organization other than IIROC or MFDA, or their respective successors, effective upon the date that the application for membership in the Corporation submitted by that self-regulatory organization is approved by the CEO.

3.7 Exemptions from Requirement to Participate.

For greater certainty in interpreting the references in paragraphs 3.6(c) and 3.6(d) to circumstances in which a Financial Services Provider is required to participate in the ombudservice provided by the Corporation, a Financial Services Provider referred to in paragraph 3.3(h), paragraph 3.3(j) or paragraph 3.3(k) is, as of the effective date of this By-law No. 1, only required by applicable law or by the Industry Entity of which such Financial Service Provider is a member to participate in the ombudservice provided by the Corporation to the extent that such Financial Services Provider has client accounts in respect of which there is not an exemption from the requirement under applicable law or self-regulatory organization rules, as applicable, to make a suitability determination, which exemptions include:

- (a) an exemption with respect to an account for a client that is a registered firm, a "Canadian financial institution" as defined in National Instrument 31-103 or a bank listed on Schedule III to the Bank Act;
- (b) an exemption with respect to an account for a "permitted client" as defined in National Instrument 31-103 that is not a managed account where the permitted client has provided a suitability waiver to the Financial Services Provider Member in accordance with subsection 13.3(4) of National Instrument 31-103; and

- (c) with respect to a Financial Services Provider that is an IIROC member, an exemption with respect to an account for an “institutional customer” as defined under IIROC rules and accounts subject to IIROC Rules 1300.1(t) and 1300.1(u).

3.8 **Board Refusal.** The Board shall have the right to refuse an application for membership in the Corporation that is made by a Person referred to in paragraphs 3.6(d) and 3.6(e), except where the Financial Services Provider or self-regulatory organization is required by law to participate in the ombudservice provided by the Corporation or to be a Member of the Corporation. Notwithstanding the foregoing, the Board shall have the right to refuse an application for membership in the Corporation that is made by a Person that does not satisfy the eligibility criterion set forth in section 3.5 or that has been removed as an Industry Member pursuant to section 3.9.

3.9 **Removal of Industry Member.** Any Industry Member may be removed at any time by the Board by an Ordinary Resolution or by a written resolution signed by all of the Directors entitled to vote on that resolution for any reason which the Board in its absolute discretion deems to be in the interests of the Corporation, including the following:

- (a) violating any provision of the Articles, By-laws, or any policies or practices of the Corporation in effect from time to time;
- (b) carrying out any conduct which may be detrimental to the Corporation, including its reputation; and
- (c) a persistent failure of an Industry Member that is a Financial Services Provider or an Industry Entity to pay its membership fees to the Corporation; and
- (d) a determination that it is not in the best interests of the Corporation to provide services to that Industry Member or to any Industry Members in an industry sector.

The Board or a Director or Officer designated by the Board shall provide the Industry Member in question with ten (10) days’ notice of removal, which notice shall state the reasons for the proposed removal. The Industry Member may make written submissions to the Board, or such Director or Officer designated by the Board in response to such notice within that ten (10) day period. In the event that no written submission is received by the Board, the Board or such Director or Officer designated by the Board may proceed to notify the Industry Member that the Industry Member is removed from the membership of the Corporation. If written submissions are received from the Industry Member, the Board or a committee of the Board shall consider such submission before making a final determination whether to remove the Industry Member and shall notify that Industry Member of the final determination within a further ten (10) days after the date of receipt of the submission. The decision of the Board or committee of the Board shall be final and binding on the Member without any further right of appeal.

In the event of the removal of any of the Industry Entities, each of its members shall also cease to be an Industry Member, unless a member of that Industry Entity directly applies to be an Industry Member. Upon the removal of an Industry Member in accordance with this section, the Corporation shall cease to provide services to that Industry Member and, in the

case of an Industry Entity, its members unless a member of that Industry Entity directly applies to be an Industry Member. An Industry Member removed pursuant to this provision may be re-admitted as an Industry Member only with the approval of the Board.

In the case of the removal of an Industry Member, that Industry Member shall remain liable for payment of any membership fees which became payable by that Industry Member to the Corporation prior to the effective time of the removal.

3.10 Resignation of Industry Member. Any Industry 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, which shall be effective at the time such written resignation is accepted by the Board, or at the time specified in the written resignation, whichever is earlier. In the case of the resignation of an Industry Entity in accordance with this section, its members shall also be deemed to have resigned unless a member of such Industry Entity directly applies for membership in the Corporation. In the case of the resignation of an Industry Member, that Industry Member shall remain liable for payment of any membership fees, including membership fees that become payable upon resignation, which became payable by that Industry Member to the Corporation prior to and as of the effective time of the resignation. Upon the resignation of an Industry Member in accordance with this section, the Corporation shall cease to provide services to that Industry Member and, in the case of an Industry Entity, its members unless a member of that Industry Entity directly applies to be an Industry Member. An Industry Member that resigns pursuant to this provision may be re-admitted as an Industry Member only with the approval of the Board.

3.11 Transferability and Termination of Membership. Membership in the Corporation is not transferable and shall lapse and terminate on the earliest to occur of the following events:

- (a) in the case of a General Member, the individual ceases to be a Director pursuant to section 6.12;
- (b) the Industry Member ceases to meet the eligibility criterion set out in section 3.5;
- (c) the removal of an Industry Member in accordance with section 3.9;
- (d) the resignation of an Industry Member in accordance with section 3.10; or
- (e) the Corporation is liquidated and dissolved under Part 14 of the Act.

ARTICLE 4 FEES

4.1 Fees. No membership fees shall be levied by the Corporation in respect of General Members. Each Industry Member that is a Financial Services Provider shall pay membership fees in the amounts and manner, and at the times, established and approved by the Board from time to time. The manner of calculating membership fees, as well as the manner and times of payment, may vary for Financial Services Providers in different industry sectors.

Nevertheless, when determining the membership fee payable by an Industry Member, the following criteria will be taken into consideration:

- (a) the Corporation's need for stability of funding;
- (b) the overall administrative costs of the Corporation's operations, including costs arising from the Corporation ceasing to provide services to any one or more Industry Members or to all Industry Members in an industry sector;
- (c) fairness to all Industry Members;
- (d) the desirability of accurately allocating expenses to activities and/or to industry sectors;
- (e) administrative ease; and
- (f) the potential impact of membership fees on the applicants for membership in the Corporation.

The Board may levy several types of membership fees in respect of Industry Members from time to time and at any time.

4.2 Membership Fee Payable Upon Resignation. In the event that an Industry Member resigns, it shall pay to the Corporation, as part of its membership fee, in addition to any amounts that may be paid by such Industry Member to the Corporation in respect of dispute resolution services for such Industry Member following such Industry Member's resignation, an amount equal to six (6) months' membership fees for such Industry Member, as determined in accordance with the Corporation's funding cost allocation effective on and as at the effective date of such Industry 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 Industry 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 Industry Member shall be deemed to have resigned for the purpose of this section 4.2 and shall pay the amount described above determined as at the date that the Members approve the said event.

ARTICLE 5 MEMBERS' MEETINGS

5.1 Place of Meetings. The Annual Meeting or any other meeting of the Members shall be held at the registered office of the Corporation or at any place in Canada on such day in each year and at such time as the Board may determine. An Annual Meeting may be held at a place outside Canada if all of the Members entitled to vote at the meeting agree that the meeting is to be held in that other place.

5.2 **Annual Meeting.** An Annual Meeting of the General Members of the Corporation shall be held at least once in every calendar year and not more than fifteen (15) months after the holding of the last preceding Annual Meeting but no later than six (6) months after the end of the Corporation's preceding financial year. At every Annual Meeting, in addition to any other business that may be transacted, the General Members shall:

- (a) have presented to them the Annual Financial Statements for the preceding financial year;
- (b) fill all vacancies on the Board;
- (c) appoint the Public Accountant for the ensuing year; and
- (d) fix the remuneration of the Public Accountant or provide for such remuneration to be fixed by the Board, as contemplated by section 13.3.

5.3 **Annual Financial Statements.** If required by the Act, a copy of the Annual Financial Statements shall be sent to the director appointed by the Minister to exercise the powers of the director under the Act at least twenty-one (21) days before the date fixed for the Annual Meeting or without delay if the General Members have signed a resolution approving the Annual Financial Statements instead of holding a meeting.

5.4 **Special Business.** All business transacted at a Special Meeting of Members, and all business transacted at an Annual Meeting of Members, except consideration of the financial statements, the Public Accountant's report, the election of Directors and the reappointment of the incumbent Public Accountant, is special business.

5.5 **Special Meeting.** A Special Meeting of General Members, or Industry Members, or General Members and Industry Members together, may be held from time to time as required to address matters that are appropriate to come before them, as determined by the Board or by the application of the Act, the Articles or the By-laws. Such meetings shall take place within Canada, on such day and at such time as the Board may determine.

5.6 **Calling of Meetings.** The Board or the Chair shall have the power to call at any time any meeting of the Members of the Corporation. In addition, the Board or the Chair shall call a Special Meeting of Members on written requisition of Members entitled to vote holding five percent (5%) of votes that may be cast at the Meeting sought to be held.

5.7 **Quorum.** Quorum for the conduct of business at a meeting of the Members shall be:

- (a) in the case of a meeting of General Members, a majority of the General Members entitled to vote at the meeting; and
- (b) in the case of a meeting of Industry Members, ten (10) Industry Members entitled to vote at the meeting.

If a quorum is present at the opening of a meeting of Members, the Members present may proceed with the meeting even if a quorum is not present throughout the meeting.

5.8 Notice of Members' Meetings. Written notice of the time and place of all meetings of Members shall be given to the General Members, the Public Accountant and each Member entitled to vote at such meeting and whose name is entered in the register of Members at the close of business on the record date for notice (which shall be twenty-one (21) to sixty (60) days before the date of the Meeting) or, if no record date for notice is fixed, at the close of business on the day preceding the day on which notice is given.

A declaration of the Chair or of any other individual authorized to call a meeting that notice has been given pursuant to this By-law No. 1 shall be sufficient and conclusive evidence of the giving of such notice.

For the purpose of this section 5.8, notice shall be given in one or more of the following manners:

- (a) by mail, courier or personal delivery to each Person entitled to vote at such Meeting, during a period of twenty-one (21) to sixty (60) days before the day on which the meeting is to be held;
- (b) by telephonic, electronic or other communication facility to each Person entitled to vote at such Meeting, during a period of twenty-one (21) to thirty-five (35) days before the day on which the Meeting is to be held, provided that a Member may request that the notice be given to such Member by non-electronic means; and
- (c) so long as the Corporation has more than two hundred fifty (250) Members, by publication if notice is given:
 - (i) at least once in each of the three (3) weeks immediately preceding the day on which the meeting is held in a newspaper or newspapers circulated in the municipalities in which a majority of the Members of the Corporation reside as shown by their addresses in the register of Members; or
 - (ii) at least once in a publication of the Corporation that is sent to all Members, during a period of twenty-one (21) to sixty (60) days before the day on which the meeting is to be held.

Notice of a Special Meeting of Members shall state the nature of the business to be transacted thereat in sufficient detail to permit a Member to form a reasoned judgment thereon and shall state the text of any resolution to be submitted to the meeting.

5.9 Waiver of Notice. Any Person who is entitled to notice of a meeting of Members may waive notice either before or after the meeting, and attendance of the Person at the meeting is a waiver of notice of the meeting, unless the Person attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

5.10 **Voting.** Unless the Act or the By-laws provide otherwise, at a meeting of Members, each Member having the right to vote present in person or by proxy shall be entitled to one (1) vote on each question.

5.11 **Votes to Govern.** At any meeting of Members, every question shall, unless otherwise required by the Act, the Articles or By-laws or otherwise by law, be determined by the majority of the votes of Members entitled to vote duly cast on the question.

5.12 **Voting by Show of Hands.** Every question at a meeting of Members shall be decided in the first instance by a show of hands unless:

- (a) prior to a show of hands, the majority of Members present and entitled to vote thereat vote on the matter by ballot, in which case section 5.13 shall apply; or
- (b) after a show of hands, a ballot thereon is required or demanded by the chair of the meeting or any Person entitled to vote on the question, in which case section 5.13 shall apply.

Whenever a vote by show of hands or ballot in accordance with section 5.13 shall have been held upon a question, a declaration by the chair of the meeting that the vote on 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 votes recorded in favour of or against any resolution or other proceeding in respect of the said question, and the results of the vote so taken shall be the decision of Members entitled to vote upon the said question.

5.13 **Ballot.** If a ballot is required or demanded (including in the case of a class vote which may require a ballot), the ballot shall be held in such manner as the chair of the meeting shall direct. The demand for a ballot may be withdrawn at any time prior to the holding of the ballot.

5.14 **Absentee Voting.** Subject to compliance with the Act, in addition to voting in person in accordance with sections 5.12 and 5.13, every Member may vote by any of the following means:

- (a) Proxies

At any meeting of Members of the Corporation, a proxy, who need not be a Member, duly appointed by a Member entitled to vote, shall be entitled to exercise, subject to any restrictions expressed in the instrument appointing him or her, the same voting or other rights that such Member appointing him or her would be entitled to exercise if present at that meeting. A proxy shall be in writing and be executed by the Member. A proxy may be in such form as the Board from time to time prescribes or in such other form as the chair of the meeting may accept as sufficient, and shall be deposited with the secretary of the meeting before any vote is called under its authority, or at such earlier time and in such manner as the Board may prescribe.

(b) Telephonic, Electronic or other Communication Facilities

The Members entitled to vote a meeting of Members may determine that such meeting of Members shall be held entirely by means of such telephonic, electronic or other communication facilities that permit all participants to hear or otherwise communicate adequately with each other during the meeting, if the Corporation has a system that (i) enables the votes to be gathered in a manner that permits their subsequent verification; and (ii) permits the tallied votes to be presented to the Corporation without it being possible for the Corporation to identify how each Member voted.

(c) Mailed-in Ballot

A Member entitled to vote at a meeting of Members may, if the written notice of the applicable meeting of Members so permits, vote by mailed-in ballot, if the Corporation has a system that (i) enables the votes be gathered in a manner that permits their subsequent verification; and (ii) permits the tallied votes to be presented to the Corporation without it being possible for the Corporation to identify how each Member voted.

The Member participating in the meeting by either of the foregoing means set out in paragraphs (a), (b) or (c) above is deemed for the purposes of the Act to be present at the meeting.

5.15 **Fundamental Changes.** As and when provided for in the Act, the Industry Members have the right to vote in respect of fundamental changes. In some cases, the Industry Members have the right to vote together with the General Members and, in other cases, the Industry Members have the right to vote separately as a class. Reference must be made to the Act in the case of all fundamental changes to determine the applicable voting rights.

5.16 **Adjournments.** If a meeting of Members is adjourned for less than 31 days, it is not necessary that any Person be notified of the adjourned meeting other than by announcement at the earliest meeting that is adjourned. If a meeting of Members is adjourned by one or more adjournments for an aggregate of more than 30 days, notice of adjournment shall be given to Members entitled to vote at the meeting, the Directors and the Public Accountant in the manner referred to in section 5.8. Such adjournment may be made notwithstanding that no quorum is present.

5.17 **Chairing Meetings.** The Chair, or in the Chair's absence, an Officer appointed by the Board for such purpose, shall be the chair of all meetings of Members. If no such Officer is present within 15 minutes from the time fixed for holding the meeting, the Members present and entitled to vote shall choose a General Member from among their number as the chair of the meeting.

5.18 **Persons Entitled to be Present.** The only Persons entitled to attend meetings of Members shall be the General Members, the Industry Members where their attendance is permitted by the Act or By-laws, the Public Accountant and any other Person or Persons who are entitled or required under any provision of the Act, the Articles or the By-laws to be present at

the meeting. Any other Person or Persons may be admitted only on the invitation of the chair of the meeting or with the consent of the Members entitled to vote and, as such meeting, all Members entitled to vote shall have the right to consent thereto.

5.19 **Casting Vote.** In the case of an equality of votes at any meeting of Members, upon a show of hands, a ballot or the results of telephonic or electronic voting, the chair the meeting shall not have a second or casting vote and the question shall be deemed to be decided in the negative.

5.20 **Written Resolution in Lieu of Meeting.** Subject to the provisions of the Act, a resolution in writing signed by all of the Members entitled to vote on that resolution at a meeting of Members is as valid as if it had been passed at a meeting of Members. A resolution in writing may be signed by counterpart and satisfy all the requirements of this By-law No. 1 relating to meetings of Members, and a copy of such resolution shall be kept with the minutes of meetings of Members.

ARTICLE 6 DIRECTORS

6.1 **Authority and Responsibility.** Subject to the Act and the Articles, the Board of Directors shall manage, or supervise the management of, the activities and affairs of the Corporation.

6.2 **Duties of the Directors.**

- (a) Every Director in exercising his or her powers and discharging his or her duties shall:
 - (i) act honestly and in good faith with a view to the best interests of the Corporation; and
 - (ii) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.
- (b) Every Director shall comply with:
 - (i) the Act; and
 - (ii) the Articles and the By-laws of the Corporation.
- (c) Every Director shall verify the lawfulness of the Articles and the purpose of the Corporation.

6.3 **Number of Directors/Board.** The Board is empowered to change the number of Directors from time to time within the minimum and maximum number of Directors provided for in the Articles, provided that no decrease in the number of Directors shall shorten the term of any incumbent Director.

6.4 **Qualifications.** To serve as a Director, an individual must at all times:

- (a) be a General Member;
- (b) be eighteen (18) years of age or older;
- (c) not be Declared Incapable;
- (d) not be an undischarged bankrupt; and
- (e) in the case of an Industry Director, have been nominated in accordance with section 6.5 and section 6.7.

6.5 **Election of Industry Directors and Community Directors.**

- (a) General Members, by way of Ordinary Resolution, shall elect Industry Directors from among individual candidates nominated as follows:
 - (i) one (1) individual from among those individuals nominated for election by the Canadian Bankers Association, on behalf of its members that are Industry Members, or any Industry Member described in categories (a) through (e) of section 3.3;
 - (ii) one (1) individual from among those individuals nominated for election by IIROC; and
 - (iii) one (1) individual from among those individuals nominated for election by MFDA,

for terms described in section 6.7 or until their successors are elected.

The nomination of any individual for election as an Industry Director shall be confirmed by a written communication to the Secretary. Not more than one (1) Industry Director in office at any time may be a director, officer or employee of a particular Financial Services Provider or an Affiliate thereof.

- (b) General Members, by way of Ordinary Resolution, shall elect Community Directors who meet the eligibility criteria described in section 6.6, provided that:
 - (i) the minimum number of Community 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 Community Directors; and
 - (ii) upon this By-Law No. 1 coming into effect and subject to any vacancy then existing among the directorships allocated to Community Directors, the current Community 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 Ordinary Resolution of the General Members from among candidates nominated by the Board for terms described in section 6.7. In the event of any vacancy existing among the directorships allocated to Community Directors upon this By-Law No. 1 coming into effect, such vacancy may be filled by either an Ordinary Resolution or by a written resolution signed by all the General Members in support of an individual or individuals recommended by resolution of the Board.

The Board shall determine the number of Community Directors to be elected pursuant to paragraph 6.5(b) at any meeting of the Members. Such number shall be determined by the Board prior to such meeting.

6.6 Eligibility Criteria for Community Directors.

The following eligibility criteria for the Community Directors shall be applied at the time of their election or re-election and at all times during the term of office of the Community Directors: individually, no Community Director shall:

- (a) be a current Industry Director or have been an Industry Director in the two (2) years prior to election as a Community Director;
- (b) be a current employee of the Corporation or have been an employee of the Corporation in the two (2) year period prior to election as a Community Director;
- (c) be a current partner, director, officer or employee of any Financial Services Provider that is a Member or have been a partner, director, officer or employee of any Financial Services Provider that is a Member in the two (2) years prior to election as a Community Director;
- (d) be a current director, executive committee member, officer or employee of an Industry Entity or have been a director, executive committee member, officer or employee of an Industry Entity in the two (2) years prior to election as a Community Director;
- (e) be a current employee of a federal, provincial or territorial government working in a department or agency responsible for financial sector policy or regulation or consumer policy or regulation or have been an employee of a federal, provincial or territorial government working in a department or agency responsible for financial sector policy or regulation or consumer policy or regulation, in the two (2) years prior to election as a Community Director;
- (f) be a current member of the Senate of Canada, Member of Parliament or member of a provincial or territorial legislative assembly or have been a member of the Senate of Canada, Member of Parliament or member of a provincial or territorial legislative assembly, in the two (2) years prior to election as a Community Director;

- (g) be an individual who provides goods or services to and receives compensation from, or an individual who is an employee or a partner of an entity that receives revenue from services the entity provides to, a Financial Services Provider that is a Member or is a member of an Industry Entity, where the extent of such compensation or revenue would be reasonably perceived to result in a bias in favour of any Financial Services Provider;
- (h) be 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, or control (as that term is defined by legislation governing federally regulated financial institutions) of, a Financial Services Provider that is a Member or is a member of an Industry Entity; and/or
- (i) be an individual who, because of his or her current or previous experience and relationships, including spousal or common law relationships or other family relationships, would be reasonably perceived to have a bias in favour of or against any Financial Services Provider.

6.7 Election and Term.

- (a) For greater certainty, upon this By-law No. 1 coming into effect, each Director in office as of that date shall complete the term of office to which he or she was elected or appointed and each Industry Director shall retain his or her designation as an Industry Director and each Director designated as an “Independent Director” immediately prior to this By-law No. 1 coming into effect shall be designated as a Community Director upon this By-law No. 1 coming into effect.
- (b) The Industry Directors shall be elected in the manner described in paragraph 6.5(a) and their terms shall expire in rotation.
- (c) At every annual meeting at which the term of an Industry Director who was nominated by the Canadian Bankers Association, on behalf of its members that are Industry Members, or any Industry Member described in categories (a) through (e) of section 3.3 expires, the General Members shall elect or re-elect an individual nominated by the Canadian Bankers Association, on behalf of its members that are Industry Members, or any Industry Member described in categories (a) through (e) of section 3.3 and, subject to paragraph 6.7(h), each Industry Director so elected or re-elected shall hold office until the close of the third (3rd) annual meeting after such Industry Director’s election or re-election or for such other shorter term as the Board shall determine.
- (d) At every annual meeting at which the term of an Industry Director who was nominated by IIROC, the General Members shall elect or re-elect an individual nominated by IIROC and, subject to paragraph 6.7(h), each Industry Director so elected or re-elected shall hold office until the close of the third annual meeting after such Industry Director’s election or re-election or for such other shorter term as the Board shall determine.

- (e) At every annual meeting at which the term of an Industry Director who was nominated by MFDA expires, the General Members shall elect or re-elect an individual nominated by MFDA and, subject to paragraph 6.7(h), each Industry Director so elected or re-elected shall hold office until the close of the third annual meeting after such Industry Director's election or re-election or for such other shorter term as the Board shall determine.
- (f) The Community Directors shall be elected in the manner described in paragraph 6.5(b) and their terms shall expire in rotation. At every annual meeting at which the term of a Community Director expires, there shall be elected or re-elected, in the manner described in paragraph 6.5(b), a number of Community Directors determined by the Board pursuant to section 6.5(b). Each Community Director so elected or re-elected shall hold office until the close of the third annual meeting after such Community Director's election or for such shorter term as the Board shall determine. A Community Director whose term has expired shall be eligible for re-election as a Community Director provided that the Community Director continues to meet the eligibility criteria for Community Directors set out in section 6.6 at the time of re-election. If the Board determines by resolution to increase the number of Community Directors, the additional Community Director or Community Directors shall be elected in the manner described in paragraph 6.5(b) to hold office for an initial term determined by the Board, which shall be for a term not longer than the fourth (4th) annual meeting of the Members after the date of such Community Director's election.
- (g) Each individual who has been elected as a Director shall be eligible for re-election so long as such individual continues to meet the qualifications set out in section 6.4 and, in the case of a Community Director, section 6.6; provided that no individual may hold office for more than six (6) consecutive years (excluding the time spent serving the unexpired portion of another Director's term). For greater certainty, if the sixth (6th) Annual Meeting following the date upon which an individual was first elected as a Director is later than the sixth (6th) anniversary of the Director's election, the Director may continue his or her term of office until such Annual Meeting. Notwithstanding the foregoing, a Director who is appointed as Chair in that Director's fifth (5th) consecutive year as a Director may continue to serve as a Director for more than six (6) consecutive years until the expiry of that Director's two (2) year term as Chair.
- (h) The terms of Directors are to expire in rotation such that the terms of office of approximately one-third (1/3) of all Directors in office immediately prior to the end of each Annual Meeting end at the end of such Annual Meeting. Notwithstanding any other provisions of this By-law No. 1, the General Members shall be entitled to elect a director:
 - (i) for a term of less than three (3) years in order to maintain the rotational structure of Director terms or because a Director would not be entitled to serve a full three (3) year term pursuant to paragraph 6.7(f); or

- (ii) for a term of up to four (4) years in order to maintain the rotational structure of Director terms.

6.8 **Consent to Serve.** An individual who is elected to hold office as a Director is not a Director, and is deemed not to have been elected to hold office as a Director, unless:

- (a) the individual has applied to be a General Member; and
- (b) either
 - (i) the individual was present at the meeting when the election took place and did not refuse to hold office as a Director; or
 - (ii) the individual was not present at the meeting when the election took place but
 - (A) consented to hold office as a Director in writing before the election or within ten (10) days after the date on which the election took place, or
 - (B) has acted as a Director after the election.

6.9 **Resignation.** Any Director who wishes to resign from the Board prior to the expiry of his or her term of office shall deliver a written resignation to the Chair and such resignation shall be effective from the date specified therein, or if no date is so specified, from the date of receipt of such resignation by the Chair.

6.10 **Removal.** Subject to section 6.11, the General Members entitled to vote may, by Ordinary Resolution passed at a Special Meeting of General Members of which notice specifying the intention to pass such Ordinary Resolution has been given, remove any Director before the expiry of such Director's term of office, and may, by a majority of votes cast at that meeting, elect any qualified individual in the place of such Director for the remainder of the term of such Director provided that, in the case of an Industry Director, such qualified individual has been nominated for election as a Director by a Person that was entitled, pursuant to paragraph 6.5(a), to nominate the Industry Director who was removed at the Special Meeting.

6.11 **Written Statement.** A Director may submit to the Corporation a written statement giving reasons for resigning, or for opposing his or her removal or replacement, if a meeting is called for that purpose. The Corporation shall immediately:

- (a) give notice to the General Members of the statement in accordance with section 5.8; and
- (b) send a copy of the statement to the director appointed by the Minister pursuant to section 281 of the Act.

6.12 **Vacation of Office.** The office of the Director shall automatically be vacated when such Director:

- (a) dies;
- (b) resigns in accordance with section 6.9;
- (c) is removed from office in accordance with section 6.10;
- (d) becomes disqualified from being a director under section 6.4;
- (e) misses three (3) consecutive Board meetings or four (4) Board meetings in the financial year, unless the Board has resolved to excuse such absences;
- (f) in the case of a Community Director, where the Board by resolution of two-thirds (2/3rds) of Directors present at a meeting determines that a Community Director no longer meets the eligibility criteria described in section 6.6; or
- (g) in the case of an Industry Director, the Corporation ceases providing services to all categories of Industry Members that were entitled, pursuant to section 6.5(a), to nominate such Industry Director.

6.13 **Filling Vacancy.** If any vacancy shall occur, such vacancy shall continue until a Director is elected 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 fourth (4th) annual meeting of Members after such Director's appointment, as follows:

- (a) if the vacancy relates to an Industry Director, by an Ordinary Resolution of the General Members in support of an individual nominated by a Person that was entitled, pursuant to paragraph 6.5(a), to nominate the Industry Director who held office as a director immediately to the vacancy; or
- (b) if the vacancy relates to a Community Director, by Ordinary Resolution of the General Members in support of an individual nominated by the Board pursuant to paragraph 6.5(b).

Where the Board increases the number of Directors from time to time within the minimum and maximum number of Directors provided for in the Articles, the vacancy shall be filled by the General Members pursuant to section 6.5.

Notwithstanding the foregoing, a vacancy relating to a Community Director shall not be filled if it is not necessary to fill such vacancy as a result of a reduction in the number of Community Directors pursuant to section 6.5.

6.14 **Specific Powers.** The Board shall:

- (a) appoint the CEO, the Secretary and the Treasurer and such other Officers as the Board shall from time to time determine, including one (1) or more assistants to any of the Officers so appointed;
- (b) appoint the Ombudsman in accordance with section 8.3;

- (c) appoint the Chair;
- (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;
- (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 Industry Members in accordance with sections 4.1 and 4.2; and
- (g) review and approve, amend or repeal a code of conduct for the Corporation.

6.15 **No Power Regarding Complaints.** 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 an Industry 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.

6.16 **Copy of Complaint to Chair.** The Chair shall be provided with a copy of any complaint addressed to a Director or to the Board or of any complaint that a complainant has requested be forwarded to, reviewed by or appealed to the Board.

6.17 **Committees Generally.**

- (a) The Board may from time to time constitute such committees as it deems necessary or advisable and, subject to the Act (including committee composition requirements and the limitations on delegation set out therein), for such purposes and with such powers as may be prescribed by the Board, whose members shall

serve at the pleasure of the Board. Each such committee 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. The Board may fix any remuneration to be paid, if any, to members of any committee. Any member of any committee shall be removable from such committee at any time at the discretion of the Board. The members of such committees need not be restricted to individuals who are Directors of the Corporation. The Board shall have the power to disband any committee that it creates.

- (b) The presence of a majority of committee members 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.

ARTICLE 7 DIRECTORS' MEETINGS

7.1 **Place of Meeting.** Except as otherwise required herein or by law, the Board may hold its meetings at any place within Canada (or if the Board determined that it is in the best interests of the Corporation, at any place outside Canada), as it may from time to time determine.

7.2 **Calling of Meetings.** Board meetings may be called by the Chair or by any two (2) Directors.

7.3 **Number of Meetings.** There shall be a minimum of four (4) Board meetings per year or such greater number of meetings as determined from time to time by the Board.

7.4 **Notice of Meetings.** Notice of meetings of the Board shall be given by prepaid delivery, telephone, fax, e-mail or other means of recorded electronic communication to each Director not less than two (2) days before the meeting is to take place or shall be mailed to each Director not less than ten (10) days before the meeting is to take place. A meeting may be called with less notice by such means as are deemed appropriate, provided that a majority of the Directors consent to holding such a meeting. The notice of the meeting of the Board meeting need not specify the purpose of the business to be transacted at the meeting, except that a notice of a Board meeting shall specify any matter referred to in section 7.6 that is to be dealt with at the meeting. A declaration of the Chair or of any other individual authorized to call the meeting that notice has been given pursuant to this By-law No. 1 shall be sufficient and conclusive evidence of the giving of such notice.

7.5 **Regularly Scheduled Meetings.** The Board may, by resolution, establish the date, time and place of regular meetings of the Board ("Regularly Scheduled Meetings"). A copy of such resolution or a list of such dates, times and places shall be sent to each Director forthwith following the passage of such resolution by regular mail, prepaid delivery, telephone, fax, e-mail or other recorded means of recorded electronic communication. Thereafter, no further notice shall be required in respect of such Regularly Scheduled Meetings unless a matter referred to in section 7.6 is to be dealt with at the meeting.

7.6 **Content of Notice.** A notice of a meeting of the Board need not specify the purpose of or the business to be transacted at the meeting except that a notice of meeting of the Board shall provide notice of any of the following matters to be dealt with at the meeting, namely a resolution to:

- (a) submit to the Members any question or matter requiring the approval of Members;
- (b) fill a vacancy in the office of the Public Accountant;
- (c) issue debt obligations except as authorized by the Directors;
- (d) approve the Annual Financial Statements;
- (e) adopt, amend or repeal any By-laws; or
- (f) establish membership fees under sections 4.1 and 4.2.

7.7 **Meetings Without Notice.** A meeting of the Board may be held at any time and place without notice if all Directors who are present, and all those who are not present, either before or after the meeting, waive notice thereof, and the attendance of a Director at a meeting of Directors is a waiver of notice of the meeting, except if the Director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds of the meeting is not lawfully called, and at such meeting any business to be transacted which the Corporation, at a meeting of Directors, may transact, provided that a quorum is present. No notice is required to be given in order to conduct business at each Annual Organizational Meeting, provided that a quorum is present.

7.8 **Meetings by Communication Facility.** If all of the Directors present at or participating in the meeting consent, a meeting of the Board may be held by such telephonic, electronic or other communication facilities as permit all Persons participating in the meeting to communicate adequately with each other during the meeting, and a Director participating in the meeting by those means is deemed for the purposes of the Act 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 in respect of all meetings of the Board and of committees held while a Director holds office.

7.9 **Chairing Meetings.** The Chair, or in the Chair's absence, an Officer appointed by the Board for such purpose, shall be the chair of all meetings of the Directors. If no such Officer is present within fifteen (15) minutes from the time fixed for holding the meeting, the Directors present shall choose one (1) of their number to be the chair of the meeting.

7.10 **Quorum.** 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, but not less than two (2) Directors, provided that such majority consists of a total number of Community 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.

Where there is a vacancy on the Board, a majority of the remaining Directors may exercise all the powers of the Board so long as not less than two (2) Directors are present at the meeting and as long as, of the Directors present at the meeting, the total number of Community Directors is greater than the total number of the Industry Directors.

7.11 **Voting.** Subject to the Act, the Articles and the By-laws, any question arising in any meeting of the Board or a committee of the Board shall be decided by a majority of votes. Each Director is entitled to exercise (1) vote. All votes of any such meeting shall be taken by 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 of the meeting that the 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 votes recorded in favour of or against such resolution, and the results of the vote so taken shall be the decision of the Board or committee of the Board upon the said question.

7.12 **Voting on Independence Matters.** Notwithstanding Section 7.11, any resolution in respect of a matter arising or being considered at any meeting of the Board that is an Independence Matter must be approved by (a) a majority of votes cast by Directors present at the meeting of the Board and (b) a majority of the Community Directors present at the meeting of the Board.

7.13 **Casting Vote.** In the case of an equality of votes at any Board meeting, the Chair shall not have a second or casting vote and the question shall be deemed to be decided in the negative.

7.14 **Written Resolution.** A resolution in writing, signed by all the Directors entitled to vote on that resolution at a meeting of the Board or committee of the Board, is as valid as if it had been passed at a meeting of the Board or committee of the Board. A resolution in writing may be signed by counterpart and a copy shall be kept with the minutes of meetings of the Board or committees of the Board.

7.15 **Reasonable Remuneration.** The Community Directors shall be paid such reasonable remuneration as may be decided from time to time by Ordinary Resolution of the Directors.

ARTICLE 8 OFFICERS

8.1 **Appointment.** The Officers of the Corporation shall be an Ombudsman, a Chair, a CEO, a Secretary, a Treasurer and any such other Officers with such duties and level of seniority as the Board may by resolution determine. Except as otherwise provided herein, an Officer may but need not be a Director and an individual may hold more than one (1) office and more than one (1) individual may hold an office.

8.2 **Duties.** Subject to the provisions of the Act, the Board may specify the duties of such Officers and, in accordance with this By-law No. 1 and subject to the Act, delegate to such Officers powers to manage the activities and affairs of the Corporation. Unless otherwise determined by the Board, the following Officers shall have the responsibilities set out below:

- (a) the Chair, who shall be a Community Director, when present, shall preside at all meetings of the Members and the Board, shall sign all instruments which require his or her signature in accordance with this By-law No. 1 or otherwise, shall represent the Corporation at public or official functions, and shall have such other powers and duties as may from time to time be assigned to him or her by 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 Board or a committee thereof on the review;
- (b) if appointed, the Vice-chair, who shall be a Director, when present, shall preside at all meetings of the Members and the Board in the absence of the Chair and shall have such other powers and duties as may from time to time be assigned to him or her by the Board;
- (c) the Chief Executive Officer shall have the general management of the activities and affairs of the Corporation and such other powers and duties as specified by the Board;
- (d) the Secretary shall attend all meetings of Members and the Board, except where the chair of the meeting determines that it is inappropriate for the Secretary to attend due to the nature of the matters being discussed, provided that at all such meetings not attended by the Secretary, an individual in attendance at the meeting shall be appointed to fulfil the duties of the Secretary at such meeting as are hereinafter described. At meetings at which the Secretary is in attendance, the Secretary shall record all facts and minutes of all proceedings in the books kept for that purpose. The Secretary shall be the custodian of the corporate seal, if any, of the Corporation and of all books, papers, records, correspondence, contracts and other documents belonging to the Corporation, which the Secretary shall deliver up only when authorized by resolution of the Board to do so to such Person or Persons as may be named in the resolution. The Secretary shall sign such documents, contracts or instruments in writing as require his or her signature and shall perform such other duties as may from time to time be determined by the Board or as are incidental to the office of the Secretary;
- (e) the Treasurer shall keep proper accounting records in compliance with the Act and shall be responsible for the deposit of money, the safekeeping of securities and the disbursement of the funds of the Corporation. The Treasurer shall render to the Board whenever required an account of all transactions involving the Corporation and of the financial position of the Corporation, and the Treasurer shall have such other powers and duties as the Board may specify; and/or
- (f) the powers and duties of all other Officers of the Corporation appointed by the Board shall be such as the terms of their engagement call for or the Board prescribes. Any of the powers and duties of an Officer to whom an assistant has

been appointed may be exercised and performed by such assistant, unless the Board otherwise directs.

8.3

Ombudsman.

- (a) The Board shall appoint an individual who meets the eligibility criteria set out in paragraph (b) as the Ombudsman on terms and at a remuneration to be decided by the Board to hold office during good behaviour. 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 in accordance with section 7.12.
- (b) At the time of the appointment or re-appointment of the Ombudsman and at all times during the Ombudsman's term of office, the Ombudsman shall not:
 - (i) be a current partner, director, officer or employee of any Financial Services Provider that is a Member or have been a director, officer or employee of any Financial Services Provider that is a Member in the five (5) years prior to appointment as Ombudsman;
 - (ii) be a current director, executive committee member, officer or employee of an Industry Entity or have been a director, executive committee member, officer or employee of an Industry Entity in the five (5) years prior to appointment as Ombudsman;
 - (iii) be a current employee of a federal, provincial or territorial government working in a department or agency responsible for financial sector policy or regulation or consumer policy or regulation or have been an employee of a federal, provincial or territorial government working in a department or agency responsible for financial sector policy or regulation or consumer policy or regulation in the five (5) years prior to appointment as Ombudsman;
 - (iv) be a current member of the Senate of Canada, Member of Parliament or member of a provincial or territorial legislative assembly or have been a member of the Senate of Canada, Member of Parliament or a member of a provincial or territorial legislative assembly in the five (5) years prior to appointment as Ombudsman;
 - (v) be an individual who provides goods or services to and receives compensation from, or an individual who is an employee or a partner of an entity that receives revenue from services the entity provides to, a Financial Services Provider that is a Member or is a member of an Industry Entity, where the extent of such compensation or revenue would be reasonably perceived to result in a bias in favour of any Financial Services Provider;

- (vi) be 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, or control (as that term is defined by legislation governing federally regulated financial institutions) of, a Financial Services Provider that is a Member or is a member of an Industry Entity; and/or
- (vii) be an individual who, because of his or her current or previous experience and relationships, including spousal or common law relationships or other family relationships, would be reasonably perceived to have a bias in favour of or against any Financial Services Provider.

8.4 **Term of Officers.** The Officers of the Corporation, other than the Chair, the Ombudsman, the CEO and employees of the Corporation, shall hold office for one (1) year from the date of their appointment or until their successors are appointed in their stead. The Chair shall be appointed for a term of two (2) years or until his or her successor is appointed.

8.5 **Time of Appointment.** The Officers of the Corporation, other than the Chair, the Ombudsman, the CEO and employees of the Corporation, shall be appointed at the Annual Organizational Meeting. The Director appointed as Chair shall serve until the conclusion of the second Annual Organizational Meeting next following his or her appointment as Chair, or such shorter time period as the Board may determine. Notwithstanding the foregoing, such Officer shall cease to hold office on such Officer's resignation or removal by the Board or, where such Officer must be a Director, upon such individual ceasing to be a Director.

8.6 **Removal of Treasurer or Secretary.** The Treasurer or the Secretary shall be subject to removal by Ordinary Resolution of the Board at any time with or without cause.

8.7 **Agents and Attorneys.** The Corporation, by or under the authority of the Board, shall have power from time to time to appoint agents or attorneys for the Corporation in or outside Canada with such powers (including the power to sub-delegate) of management, administration or otherwise as may be thought fit.

ARTICLE 9 PROTECTION OF DIRECTORS AND OFFICERS

9.1 **Limitation of Liability.** Every Director and Officer in exercising his or her powers and in discharging his or her duties shall act honestly and in good faith with a view to the best interests of the Corporation and exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Subject thereto, no Director or Officer of the Corporation shall be liable for the acts, receipts, neglects or defaults of any other Director or Officer or other individual acting in a similar capacity or for joining in any receipt or other act for conformity, or for any loss, damage or expense to the Corporation arising from the insufficiency or deficiency of title to any property acquired by or on behalf of the Corporation, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Corporation are invested or for any loss, damage or expense arising from the bankruptcy, insolvency, act or omission of any Person with whom or which any monies, securities or other property of the Corporation are lodged or deposited, or for any loss, damage or expense

occasioned by any error of judgment or oversight on such Director's, Officer's or other individual's part, or for any other loss, damage or expense related to the performance or non-performance of the duties of his or her respective office or in relation thereto unless the same shall happen by or through his or her own wrongful and wilful act or through his or her own wrongful or wilful neglect or default.

9.2 **Indemnity.** Subject to the limitations contained in the Act, but without limiting the right of the Corporation to indemnify any individual under the Act or otherwise to the full extent permitted by law, the Corporation shall, from time to time and at all times, indemnify each Director or Officer or former Director or Officer (and each such Director's, Officer's or another individual's respective heirs, executors, administrators, or other legal personal representatives and his or her estate and effects, or another individual who acts or acted at the Corporation's request as a Director or an Officer or in a similar capacity of another entity), against all costs, charges and expenses including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other proceeding in which the individual is involved because of that association with the Corporation or other entity, provided that the individual to be indemnified:

- (a) acted honestly and in good faith with a view to the best interests of the Corporation, or as the case may be, to the best interests of the other entity for which the individual acted as Director or Officer or in a similar capacity at the Corporation's request; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by monetary penalty, had reasonable grounds for believing that the individual's conduct was lawful.

9.3 **Advance of Costs.** The Corporation may advance money to a Director, an Officer or other individual for the costs, charges and expenses of a proceeding referred to in section 9.2. The individual shall repay the money if the individual does not fulfil the conditions of paragraphs 9.2(a) and (b).

9.4 **Insurance.** The Corporation may purchase and maintain insurance for the benefit of an individual referred to in section 9.2 against any liability incurred by the individual in the individual's capacity as a Director or an Officer of the Corporation, or in the individual's capacity as a Director or Officer, or in a similar capacity of another entity, if the individual acts or acted in that capacity at the Corporation's request.

9.5 **Indemnities Not Limiting.** The provisions of this Article 9 shall be in addition to and not in substitution for or limitation of any rights, immunities and protections to which a Person is otherwise entitled.

ARTICLE 10 DISCLOSURE OF INTEREST

10.1 **Disclosure of Interest.** A Director or Officer of the Corporation shall disclose to the Corporation, in writing or by requesting to have it entered into the minutes of meetings of the Directors or of committees of Directors, the nature and extent of any interest that the Director or

Officer has in the material contract or material transaction, whether made or proposed, with the Corporation, if the Director or Officer:

- (a) is a party to the contract or transaction;
- (b) is a director or an officer, or an individual acting in a similar capacity, of a party to the contract or transaction; or
- (c) has a material interest in a party to the contract or transaction.

10.2 **Time of Disclosure for Director.** The disclosure required in section 10.1 shall be made, in the case of a Director,

- (a) at the meeting at which a proposed contract or transaction is first considered;
- (b) if the Director was not, at the time of the meeting referred to in (a), interested in the proposed contract or transaction, at the first meeting after the Director became so interested;
- (c) if the Director becomes interested after a contract or transaction is made, at the first meeting after the Director becomes so interested; or
- (d) if an individual who is interested in a contract or transaction later becomes a Director, at the first meeting after the individual becomes a Director.

10.3 **Time of Disclosure for Officer.** The disclosure required in section 10.1 shall be made, in the case of an Officer who is not a Director,

- (a) immediately after the Officer becomes aware that the contract, transaction, proposed contract or proposed transaction is to be considered or has been considered at a meeting;
- (b) if the Officer becomes interested after a contract or transaction is made, immediately after the Officer becomes so interested; or
- (c) if an individual who is interested in a contract or transaction later becomes an Officer, immediately after the individual becomes an Officer.

10.4 **Time of Disclosure for Director or Officer.** If a material contract or material transaction, whether entered into or proposed, is one that, in the ordinary course of the Corporation's activities, would not require approval by the Directors or Members, a Director or an Officer shall, immediately after he or she becomes aware of the contract or transaction, disclose in writing to the Corporation, or request to have entered into the minutes of meetings of Directors or committees of Directors, the nature and extent of his or her interest.

10.5 **Voting.** A Director who is required to make a disclosure under section 10.1 shall not vote on any resolution to approve the contract or transaction unless the contract or transaction:

- (a) relates primarily to the Director's remuneration as a director, an officer, or acting in a similar capacity, of a party referred to in paragraphs 10.1(b) or (c);
- (b) is for indemnity or insurance pursuant to Article 9 hereof; or
- (c) is with an affiliate, as such term is understood for the purposes of the Act.

10.6 **Continuing Disclosure.** For the purposes of this section, a General Member notice to the Directors declaring that a Director or an Officer is to be regarded as interested, for any of the following reasons, in a contract or transaction made with a party, is a sufficient declaration of interest in relation to the contract or transaction:

- (a) the Director or Officer is a director or officer, or acting in a similar capacity, of a party referred to in paragraphs 10.1(b) or (c);
- (b) the Director or Officer has material interest in the party; or
- (c) there has been a material change in the nature of the Director's or the Officer's interest in the party.

10.7 **Access to Disclosures.** The Members may examine the portions of any minutes of meetings of Directors or any minutes of meetings of committees of Directors that contain disclosures contemplated by section 10.1, and of any other documents that contain those disclosures, during the Corporation's usual business hours.

10.8 **Avoidance Standards.** A contract or transaction for which disclosure is required under section 10.1 is not invalid, and the Director or Officer is not accountable to the Corporation or its Members for any profit realized the contract or transaction, because of the Director's or Officer's interest in the contract or transaction or because the Director was present or was counted to determine whether a quorum existed at the meeting of Directors or of the committee of Directors that considered the contract or transaction, if

- (a) disclosure of the interest was made in accordance with section this Article 10;
- (b) the Directors approved the contract or transaction; and
- (c) the contract or transaction was reasonable and fair to the Corporation when it was approved.

10.9 **Failure to Declare.** Where the Board is of the opinion that a conflict of interest exists that has not been declared, the Board may disclose, by Ordinary Resolution, that a conflict of interest exists and in each such case the provisions of section 10.1 shall apply as if the Director had disclosed the interest.

10.10 **Penalty.** The Board may consider the circumstances related to a Director's failure to declare a conflict of interest at the appropriate time as required by the Act and this Article 10, and if the Board, in its absolute discretion, determines that the circumstances so

warrant, recommend the removal of that Director to the General Members at a Special Meeting called for that purpose in accordance with section 6.10.

ARTICLE 11 EXECUTION OF DOCUMENTS, BANKING AND BORROWING

11.1 **Signatories.** Except for documents executed in the usual and ordinary course of the Corporation's business, which may be signed by the Chair or CEO of the Corporation, the following are the only Persons authorized to sign any documents on behalf of the Corporation:

- (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 (1) capacity; or
- (b) any individual or individuals appointed by Ordinary Resolution of the Board to sign a specific document, a specific type of document, or generally on behalf of the Corporation.

Any document so signed may, but need not, have the corporate seal applied, if there is one.

11.2 **Facsimile Signatures.** The signatures of any individual authorized to sign on behalf of the Corporation may, if specifically authorized by Ordinary 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 individual has ceased to hold office when anything so signed is issued or delivered, until revoked by Ordinary Resolution of the Board.

11.3 **Banking.** The banking business of the Corporation shall be transacted with such banks, trust companies or other firms or corporations carrying on a banking business in Canada, or elsewhere as may from time to time be designated by or under the authority of the Board. Such banking business or any part thereof shall be transacted under such agreements, instructions and delegations of power as the Board may, from time to time, prescribe or authorize.

11.4 **Board Delegation.** From time to time, the Board may authorize any Director, or a committee of Directors, or Officer of the Corporation, to make arrangements with reference to the monies borrowed or to be borrowed as aforesaid and as to the terms and conditions of the loan thereof, and as to the security to be given therefor, with power to vary or modify such arrangements, terms and conditions and to give such additional security for any monies borrowed or remaining due by the Corporation as the Board may authorize, and generally to manage, transact and settle the borrowing of money by the Corporation.

ARTICLE 12 NOTICE

12.1 **Procedure for Sending Notice.** Any notice (which term includes any communication or document) to be given, sent, delivered or served pursuant to the Act, this By-law No. 1 or otherwise to a Member, Director, or Public Accountant shall be sufficiently given if

sent to the principal address of the applicable Person as last shown on the Corporation's records. A notice so delivered shall be deemed to have been received when it is delivered. A notice so mailed shall be deemed to have been received at the time that it would be delivered in the ordinary course of mail unless there are reasonable grounds for believing that the addressee did not receive the notice or document at that time or at all. A notice sent by means of electronic, transmitted or recorded communication shall be deemed to have been received when so sent. The Secretary may change or cause to be changed the recorded address of any Member, Director, or Public Accountant in accordance with the information believed by him or her to be reliable.

12.2 **Undelivered Notices.** If any notice given to a Member pursuant to section 12.1 is returned on two consecutive occasions because such Member cannot be found, the Corporation shall not be required to give any further notice to such Member until such Member informs the Corporation in writing of such Member's new address.

12.3 **Computation of Time.** In computing the date when notice must be given under any provision requiring a specified number of days' notice of any meeting or other event, the day of giving the notice shall be excluded and the day of the meeting or other event shall be included.

12.4 **Waiver of Notice.** Any Member, Director or Public Accountant may waive any notice required to be given to such Member, Director, or Public Accountant under any provision of the Act, this By-law No. 1 or otherwise, and such waiver, whether given before or after the meeting or other event of which notice is required to be given, shall cure any default in giving such notice.

12.5 **Error or Omission in Notice.** No error or omission in giving notice of any meeting or adjourned meeting of Members or Directors to any Member, Director or Public Accountant of the Corporation, or the non-receipt of the notice by any such Person where the Corporation has provided notice in accordance with this By-law No. 1, or any error in any notice not affecting its substance, shall invalidate any meeting to which the notice pertained or otherwise founded on such notice or make void any resolutions passed or proceedings taken thereat, and any Member or Director may ratify, approve and confirm any or all proceedings taken thereat.

12.6 **Certification re Delivery.** The statutory declaration of the Chair or of any other individual authorized to give notice of the meeting that notice has been given pursuant to this By-law No. 1 shall be sufficient and conclusive evidence of the giving of such notice.

ARTICLE 13 PUBLIC ACCOUNTANT

13.1 **Public Accountant.** Unless the Members entitled to vote are authorized by the Act to dispense with a Public Accountant, and all the General Members entitled to vote at its Annual Meeting have resolved not to appoint a Public Accountant, the General Members entitled to vote shall, by Ordinary Resolution, at each Annual Meeting appoint a Public Accountant to hold office until the next Annual Meeting, and if an appointment is not so made, the Public Accountant in office will continue in office until a successor is appointed. The Directors may, if

a quorum of the Directors is then in office, fill any vacancy in the office of Public Accountant arising between Annual Meetings.

13.2 **Qualification.** The Person appointed as a Public Accountant for the Corporation shall not be a Director, an Officer or employee of the Corporation, or a partner or employee of any such Person, but shall: (a) be a member in good standing of an institute or association of accountants incorporated by or under an Act of the legislature of a province of Canada; (b) meet any qualifications under an enactment of a province for performing any duty that the Person is required to perform under the relevant sections of the Act; and (c) be independent, within the meaning of the Act, of the Corporation, its affiliates, the Directors and Officers, and the directors and officers of the affiliates.

13.3 **Remuneration.** The remuneration of the Public Accountant appointed by the General Members shall be fixed by Ordinary Resolution of the General Members, or by the Board if it is authorized to do so by the General Members. The remuneration of a Public Accountant appointed by the Board shall be fixed by the Board.

ARTICLE 14 ANNUAL FINANCIAL STATEMENTS

14.1 **Annual Financial Statements.** The Corporation may, instead of sending copies of the Annual Financial Statements to the Members, publish a notice to its Members stating that the Annual Financial Statements are available at the registered office of the Corporation and any Member may, on request, obtain a copy free of charge at the registered office of the Corporation or by prepaid mail.

ARTICLE 15 AMENDMENT OF BY-LAWS

15.1 **Effective Date.** This By-law shall be effective on the continuance of the Corporation under the Act.

15.2 **By-laws, Amendment or Repeal.** Unless the Act, the Articles or the By-laws otherwise provide, the Directors may, by resolution, make, amend or repeal any By-law of the Corporation, which shall be effective when made by the Board. The Directors shall submit such By-law, amendment or repeal to:

- (a) the General Members at the next Annual Meeting, if a By-law, amendment or repeal may be effected without the approval of the Industry Members, in which case the General Members may confirm, reject or amend the By-law, amendment or repeal; or
- (b) all of the Members at a Special Meeting, if the By-law, amendment or repeal can only be effected with the approval of all of the Members.

The By-law, amendment or repeal is effective from the date of the resolution of the Directors. If the By-law, amendment or repeal is so confirmed, or confirmed as amended, by the Members entitled to vote thereon, it remains effective in the form in which it was confirmed.

The By-law, amendment or repeal ceases to have effect if it is not submitted by the Directors to the General Members at the next Annual Meeting of Members or to the Members at the Special Meeting or if it is rejected by the Members entitled to vote thereon. If a By-law, amendment or repeal ceases to have effect, a subsequent resolution of the Directors that has substantially the same purpose or effect is not effective until it is confirmed, or confirmed as amended, by the Members entitled to vote thereon.

15.3 **Effect of Repeal of By-laws.** The repeal of any By-law in whole or in part shall not in any way affect the validity of any act done or right, privilege, obligation or liability acquired or incurred thereunder prior to such repeal.

MADE by the Board on the <*> day of <*>, 2012.

Chair – Dr. Peggy-Anne Brown

Secretary – Robert Elliott

CONFIRMED by the Voting Members on the <*> day of <*>, 2012.

Chair – Dr. Peggy-Anne Brown

Secretary – Robert Elliott

CERTIFICATE

I, the duly appointed Secretary of the Corporation, hereby CERTIFY that this By-law No. 1 was made by the Directors of the Corporation on the <*> day of <*>, 2012 and was confirmed by the Voting Members of the Corporation on the <*> day of <*>, 2012.

Secretary – Robert Elliott