

IN THE MATTER OF THE SECURITIES ACT, RSNL1990, CHAPTER S-13 AS AMENDED
(the Act)
AND
IN THE MATTER OF THE NEW CANADIAN INVESTOR PROTECTION FUND

APPROVAL ORDER
(under section 121.2 of the Securities Act)

WHEREAS:

1. IIROC and the MFDA have agreed to consolidate their regulatory activities through a legal amalgamation to form the New Self-Regulatory Organization of Canada (**New SRO**).
2. The CSA also recommended combining Canadian Investor Protection Fund (**CIPF**) and the former MFDA Investor Protection Corporation (**MFDA IPC**) into a single compensation fund organization, which will be independent from the New SRO.
3. The former **CIPF** and the former MFDA IPC have agreed to consolidate their activities through a legal amalgamation to form the Canadian Investor Protection Fund (**CIPF**), which was subsequently approved by a vote of their respective members.
4. The Superintendent issued an Approval order effective January 1, 2021, approving the Canadian Investor Protection Fund (CIPF, hereafter referred to as **Former CIPF**) as a compensation fund for customers of investment fund dealers that were members of the Investment Industry Regulatory Organization of Canada (**IIROC**) (**CIPF Order**).
5. Former CIPF and the MFDA IPC have applied to the Superintendent for approval of CIPF as a compensation fund to operate as a successor to Former CIPF and the MFDA IPC following their amalgamation under the *Canada Not-for profit Corporations Act, SC 2009, c. 23*.
6. Former CIPF and the MFDA IPC made representations on behalf of CIPF regarding its approval as a compensation fund to the Alberta Securities Commission; Autorité des marchés financiers; British Columbia Securities Commission; Manitoba Securities Commission; Financial and Consumer Services Commission of New Brunswick; Office of the Superintendent of Securities, Northwest Territories; Nova Scotia Securities Commission; Office of the Superintendent of Securities, Nunavut; Ontario Securities Commission; Prince Edward Island Office of the Superintendent of Securities; Financial and Consumer Affairs Authority of Saskatchewan; and Office of the Yukon Superintendent of Securities (together with the Superintendent, the **Regulators**).

7. The Regulators have entered into a Memorandum of Understanding regarding oversight of CIPF (**MOU**) effective January 1, 2023, as amended from time to time.
8. Former CIPF and the MFDA IPC are consolidating through amalgamation to continue as CIPF, references to Former CIPF and the MFDA IPC in the existing regulations, rules, orders, policies, notices or other instruments (**Provisions**) in the jurisdictions of the Regulators will be treated and interpreted as references to CIPF until the appropriate consequential amendments are implemented, if considered necessary. Whenever a Provision assigns requirements or privileges exclusively to either investment dealers or mutual fund dealers, who, prior to the amalgamation, were members of IIROC and the MFDA respectively, it is to be understood that such requirements and privileges shall apply exclusively to either investment dealers or mutual fund dealers of the New SRO, as applicable.
9. The Superintendent may, if he or she is satisfied that to do so would not be prejudicial to the public interest, make an order revoking or varying this Order or any orders for Former CIPF and the MFDA IPC.
10. Based on the representations made by Former CIPF, the Superintendent is satisfied that approving CIPF as a compensation fund is in the public interest.

DEFINITIONS:

11. In this Order, the definitions are included in Schedule A, Terms and Conditions.

BACKGROUND:

12. Following public consultations, the Canadian Securities Administrators (**CSA**) published CSA Position Paper 25-404 – *New Self-Regulatory Organization Framework*, describing the plan to establish a new single enhanced self-regulatory organization that will consolidate the functions of IIROC and the MFDA in order to provide a framework for efficient and effective regulation in the public interest, including an enhanced governance structure, improved investor protection and education, and strengthened industry proficiency.
13. Former CIPF and the MFDA IPC have agreed to consolidate their activities through a legal amalgamation to form the Canadian Investor Protection Fund (**CIPF**), which was subsequently approved by a vote of their respective members.
14. CIPF will provide protection within prescribed limits to eligible customers of SRO Members, as defined in Schedule A of the Approval Order, where such

customers suffered financial loss to their property as a result of insolvency of an SRO Member; and, in connection with such coverage, CIPF will engage in risk management activities to minimize the likelihood of such losses.

15. Upon amalgamation, CIPF will maintain two segregated funds, where each of such funds will be available exclusively to eligible customers of either investment dealers or mutual fund dealers until such time as further analysis is completed and it is determined that the segregation of funds is no longer necessary.
16. CIPF will enter into an agreement with the New SRO, pursuant to which the New SRO will levy assessments on its members and pay to CIPF the amount of these assessments

IT IS ORDERED THAT:

17. The CIPF is approved as a compensation fund, subject to the terms and conditions set out in Schedule A to this Approval Order and the applicable provisions of the MOU.
18. The Superintendent rescinds the approval of Former CIPF and the MFDA IPC as compensation funds; as a result, the CIPF Order ceases to have effect upon the effective date of this Approval Order.

EFFECTIVE DATE:

19. This Order takes effect on January 1, 2023.

Dated at St. John's, Newfoundland and Labrador, this 14th day of November, 2022.



Scott Jones, CPA, CMA
Superintendent of Securities

Schedule A - Terms and Conditions

1. Definitions

Unless otherwise defined or interpreted in this Approval Order, every term used in this Approval Order that is defined in subsection 1.1(3) of National Instrument 14-101 *Definitions* has the meaning ascribed to it in that subsection.

“Board” means the board of directors of CIPF.

“CIPF Mandate” is to provide protection to customers of SRO Members who have suffered or may suffer financial losses as a result of the insolvency of the SRO Member, all on such terms and conditions as may be determined by CIPF in its sole discretion and, in connection with such coverage, to engage in risk management activities to minimize the likelihood of such losses.

“Coverage Assets” means those funds or liquid assets available to CIPF for the protection of customers of the New SRO Members.

“Coverage Policies” include, but are not limited to, the coverage policy, claims procedures, appeal committee guidelines and disclosure policy of CIPF.

“Industry Agreement” means, collectively, (i) the Industry Agreement between Former CIPF and IIROC dated September 30, 2008, as amended from time to time, including an Information Sharing Agreement appended thereto and (ii) a Services Agreement between MFDA and MFDA IPC dated July 1, 2005, as amended from time to time and an Information Sharing Agreement, dated October 1, 2009, as amended from time to time, in each case (a) to which CIPF and New SRO are parties by operation of law, (b) as such agreements have been modified or supplemented by a Transitional Agreement entered into by CIPF and New SRO effective January 1, 2023 and (c) as such agreements may be amended, restated or replaced by any other agreement(s) between CIPF and New SRO regarding the basis on which CIPF provides protection to customers of the New SRO Members.

“Industry Director” has the meaning ascribed to that term in CIPF By-Law Number 1.

“MOU” means the Memorandum of Understanding among the Regulators regarding oversight of CIPF.

“Public Director” has the meaning ascribed to that term in CIPF By-Law Number 1.

“Regulators” means the Alberta Securities Commission; Autorité des marchés financiers; British Columbia Securities Commission; Manitoba Securities Commission; Financial and Consumer Services Superintendent of New Brunswick; Office of the Superintendent of Securities for Newfoundland and Labrador; Office of the Superintendent of Securities, Northwest Territories; Nova Scotia Securities Commission; Office of the Superintendent of Securities, Nunavut; Ontario Securities Commission; Prince Edward Island Office of the Superintendent of Securities; Financial and Consumer Affairs Authority of Saskatchewan; and Office of the Yukon Superintendent of Securities.

“Self-regulatory organization (SRO)” means the New SRO.

“SRO Member” means a registered investment dealer or registered mutual fund dealer, which is a member, approved participant or similar participating organization of the SRO, provided that the Board may exclude any person or class of persons from this definition of SRO Member.

2. Authority and Purpose

CIPF has, and must continue to have, the appropriate authority and capacity to carry out the CIPF Mandate.

3. Approval of Amendments

- (a) Prior Superintendent approval is required for any amendment to the following:
 - (i) CIPF’s Coverage Policies; or
 - (ii) CIPF’s by-laws.
- (b) Prior Superintendent approval is required for any material change to the Industry Agreement. A material change is one that directly affects the CIPF Mandate.
- (c) When seeking Superintendent approval of any amendments or material change pursuant to (a) or (b) above, CIPF must comply with the processes outlined in Schedule B of the MOU, as amended from time to time.

4. Corporate Governance

- (a) The Board must be selected in a fair and reasonable manner and must fairly represent the interests of all SRO Members and their customers and properly balance the interests of SRO Members and their customers.
- (b) The Board must be composed of Industry Directors, Public Directors and the chief executive officer. The number of Public Directors must exceed the number of Industry Directors by at least one. The Board must include no more than 15 directors.
- (c) CIPF's governance structure must provide for:
 - (i) fair, meaningful and diverse representation on the Board and any committees of the Board, having regard to the differing interests between SRO Members and their customers;
 - (ii) appropriate representation of Public Directors on the Board committees and on any executive committee or similar body;
 - (iii) appropriate qualification, remuneration and conflict of interest provisions, and limitation of liability and indemnification protections for directors, officers and employees of CIPF generally; and
 - (iv) a governance, nominating and human resources committee and an audit, finance and investment committee, each of which must be constituted by a majority of Public Directors, including the chair.

5. Conflicts of Interest

Subject to applicable legislation, CIPF must identify and avoid real, potential or perceived conflicts of interest between its own interests, or the interests of its directors, officers, or employees and the CIPF Mandate.

6. Funding and Maintenance of CIPF

- (a) CIPF must institute and publish one or more fair, transparent, and reasonable methodologies of establishing assessments for contribution for each category of SRO Members, which are investment dealers and mutual fund dealers (**Assessment Policies**).
- (b) CIPF will conduct the analysis of risks associated with each category of SRO Members and, following which, determine whether a single assessment methodology is appropriate for all categories of SRO Members. Until such time as the analysis is completed,

- (i) the funds available to satisfy potential claims for coverage by customers of each category of SRO Members must be segregated;
 - (ii) the assessments must be calculated and levied discretely on the basis of independent assessment methodologies for each category of SRO Members and contributed to the segregated funds (each, a **Fund**); and
 - (iii) CIPF must ensure a moratorium on any changes to the current assessment methodologies applied to fees or assessments that would result in a material increase to the assessments levied by CIPF on each category of SRO Members, unless authorized by the Superintendent.
- (c) The assessments must:
 - (i) reflect an equitable allocation among SRO Members, which may be based on the level of risk to which each SRO Member exposes CIPF; and
 - (ii) balance the need for CIPF to have sufficient revenues to satisfy claims in the event of an insolvency of any member of the relevant category of SRO Members and to have sufficient financial resources to satisfy its operational costs against the goal that there be no unreasonable financial barriers to becoming a member of the SRO.
- (d) CIPF must make all necessary arrangements for the notification to each category of SRO Members of CIPF's assessments and the collection of such assessments, either directly or indirectly through the SRO.
- (e) The Board must determine the appropriate level of Coverage Assets for each of the Funds. The Board will conduct an annual review of the adequacy of the Coverage Assets, assessment amounts and assessment methodologies; and will ensure that the level of Coverage Assets of each Fund remains adequate to cover potential claims of customers of the relevant category of SRO Members.
- (f) Moneys in each Fund must be invested in accordance with the relevant policies, guidelines or other instruments (**Investment Policies**) applicable to that Fund and approved by the Board, who will be responsible for regular monitoring of the investments. The Investment Policies must require safety of principal and a reasonable income while

at the same time ensuring that sufficient liquidity is available to pay potential claims in accordance with the Coverage Policies. All moneys and securities must be held by a qualified custodian, which are those entities considered suitable to hold securities on behalf of an SRO Member, for both inventory and client positions, without capital penalty, pursuant to the bylaws, rules or regulations of the SRO.

- (g) CIPF must implement an appropriate accounting system, including a system of internal controls for maintaining CIPF Coverage Assets.

7. Customer Protection

- (a) CIPF must establish and maintain Coverage Policies which:
 - (i) provide for fair and adequate coverage, on a discretionary basis, for all customers of SRO Members, for losses of property comprising securities, cash, and other property (to the extent not specifically excluded or held in accounts located in Québec as detailed in CIPF's Coverage Policies) held by SRO Members resulting from the insolvency of an SRO Member, including criteria for who is an eligible customer;
 - (ii) include fair and reasonable procedures for assessing claims made to CIPF. CIPF will respond as quickly as practicable in assessing and paying claims made pursuant to those procedures; and
 - (iii) allow CIPF to adequately disclose to customers of SRO Members, either directly or indirectly through the SRO, the principles and policies on which coverage will be available, including, but not limited to, the process for making a claim and the maximum coverage available per customer account.
- (b) In a case where a claim is not accepted for payment by CIPF staff or by an appointed committee, the claim must be reconsidered by an internal appeal committee if such a review is requested by a customer of an SRO Member or by CIPF staff. CIPF must establish within its Coverage Policies fair and reasonable internal claim review procedures for this purpose. An appeal committee will be comprised of one or more adjudicators who may or may not be directors. The Coverage Policies or other documentation must include criteria established by the Board for the selection of appeal committee members, including criteria that no director involved in the initial decision will be involved in reconsidering that decision.

- (c) The Coverage Policies must not prevent a customer of an SRO Member from taking legal action against CIPF in a court of competent jurisdiction in Canada. CIPF must not contest the jurisdiction of such a court to consider a claim where the claimant has exhausted CIPF's internal appeals or review process.

8. Financial and Operational Viability

CIPF must maintain adequate financial and operational resources, including adequate staff resources or external professional advisers, to permit CIPF to:

- (a) exercise its rights and perform its duties under this Approval Order;
and
- (b) review, in accordance with the Industry Agreement, the business and operations of any SRO Member, or designated groups of SRO Members, where a situation has occurred that in the opinion of CIPF constitutes a reportable condition, as defined in the Industry Agreement.

9. Risk Management

- (a) CIPF must ensure that it has policies and procedures, including a process to identify and request all necessary information from the SRO, in order for CIPF to:
 - (i) fulfill the CIPF Mandate and manage risks to the public and to CIPF assets;
 - (ii) assess whether the prudential standards and operations of CIPF are appropriate for the coverage provided and the risk incurred by CIPF; and
 - (iii) identify and deal with SRO Members that may be in financial difficulty.
- (b) While CIPF may rely on the SRO to conduct reviews of SRO Members for CIPF purposes, CIPF must reserve the right to conduct reviews of SRO Members in particular situations where CIPF has concerns about the integrity of the Coverage Assets or possible claims.

10. Agreement between CIPF and the SRO

CIPF must comply with the Industry Agreement signed with the SRO.

11. Assistance to the SRO

CIPF must assist the SRO when an SRO Member is in or is approaching financial difficulty. Such assistance will be provided in any way CIPF determines to be appropriate.

12. Collection of Information

Subject to applicable legislation, CIPF must:

- (a) collect, use and disclose personal information only to the extent reasonably necessary to carry out CIPF regulatory activities and CIPF Mandate; and
- (b) protect personal information and confidential business information in its custody or under its control.

13. Information Sharing and Regulatory Cooperation

- (a) CIPF must provide the Superintendent with reports, documents and information as the Superintendent or its staff may request.
- (b) CIPF shall have mechanisms in place to enable it to share information and otherwise co-operate with the Superintendent.

14. Ongoing Reporting Requirements

CIPF must comply with the reporting requirements set out in Schedule B of this Approval Order, as amended from time to time by the Superintendent.

Schedule B - Reporting Requirements

1. Prior Notification

- (a) CIPF will provide the Superintendent with at least 12 months' written notice prior to completing any transaction that would result in CIPF:
 - (i) ceasing to perform its functions;
 - (ii) discontinuing, suspending or winding-up all or a significant portion of its operations; or
 - (iii) disposing of all or substantially all of its assets.
- (b) In situations where, in the opinion of CIPF, the notice period in subsection (a) is considered unreasonable, CIPF will inform the Superintendent with as much advance notice as possible in the circumstances. Such notice will include an explanation of why the notice period in subsection (a) is considered unreasonable.
- (c) CIPF will provide the Superintendent with at least 60 days' prior written notice before implementing any change to the following:
 - (i) CIPF's Investment Policies; or
 - (ii) CIPF's Assessment Policies.
- (d) CIPF will provide the Superintendent with at least 60 days' prior written notice before making a decision to exclude any person or class of persons from the definition of SRO Member in CIPF By-Law Number 1.
- (e) CIPF will provide the Superintendent with at least 60 days' prior written notice before implementing any material change to CIPF Board's mandate and the Board committees' mandates.

2. Immediate Notification

- (a) CIPF will immediately report to the Superintendent any reportable condition as defined in the Industry Agreement, with respect to an SRO Member of which CIPF has been notified.

- (b) CIPF will immediately report to the Superintendent where the SRO has withdrawn or has been expelled from participation in CIPF. CIPF will include in its report the reasons for the SRO's withdrawal or expulsion.
- (c) CIPF will immediately report to the Superintendent any actual or potential material adverse change in the level of CIPF's assets, together with CIPF's plan to deal with the situation.

3. Prompt Notification

- (a) CIPF will provide the Superintendent with prompt notice of the following occurrences, and in each case describe the circumstances that gave rise to the occurrence, and CIPF's proposed response to ensure resolution, and, if appropriate, provide timely updates:
 - (i) situations that would reasonably be expected to raise concerns about CIPF's financial viability, including but not limited to, an inability to meet its expected expenses for the next quarter or the next year;
 - (ii) any determination by CIPF or notification from any Regulator that CIPF is not, or will not be, in compliance with one or more of the terms and conditions of its approval or acceptance in any jurisdiction; and
 - (iii) any breach of security safeguards involving information under CIPF's control if it is reasonable in the circumstances to believe that the breach creates a real risk of material harm to investors, issuers, registrants, other market participants, CIPF, the SRO, or the capital markets.
- (b) CIPF will prepare and provide to the Superintendent a report detailing any action taken by CIPF with respect to an SRO Member. For SRO Member insolvencies, the report will describe the circumstances of the insolvency, including a summary of the actions taken by the SRO Member, the SRO and CIPF and any committee or person acting on behalf of such parties.

4. Semi-Annual Reporting

CIPF will file on a semi-annual basis with the Superintendent a written report pertaining to CIPF's operations promptly after the report is reviewed or approved by the Board, Board committees, or senior management, as the case may be, containing at a minimum the following information and documents:

- (a) A summary of ongoing initiatives, policy changes, and emerging or key issues that arose in the previous 6 months.
- (b) Description of any changes in the composition of the Board, including the names and terms of any incoming directors, the names of any outgoing directors, and whether any incoming directors are Public Directors as defined in CIPF's By-law Number 1.
- (c) Any suggestions or comments that CIPF has made to the SRO regarding the SRO's making new rules or amending existing rules, and the SRO's response to those suggestions.
- (d) Description of any directions CIPF has made to the SRO to take certain actions in regard to SRO Members that are in financial difficulty pursuant to the Industry Agreement, details about the CIPF's direction and comment on whether CIPF is satisfied with the SRO's response.
- (e) Summary statistics pertaining to (i) the Coverage Assets, (ii) assessments and (iii) noted trends.
- (f) The adequacy of (i) the level of Coverage Assets, (ii) assessment amounts, and (iii) assessment methodology.
- (g) SRO Member insolvencies and any resulting customer claims, detailing the circumstances of the insolvency and including a summary of the actions taken by the SRO Member, the SRO and CIPF.
- (h) Risk management issues, including how CIPF evaluated risks, what risk management issues were identified and how CIPF dealt with these issues.
- (i) The extent and results of any SRO Member reviews conducted pursuant to the Industry Agreement.
- (j) CIPF's staff complement, by function, and details of any material changes or reductions in staffing, by function, during the previous 6 months.
- (k) Any intended material changes to arrangements with third party service providers relating to key services or systems.

5. Annual Reporting

CIPF will file on an annual basis with the Superintendent a written report pertaining to CIPF's operations promptly after the report is reviewed or

approved by the Board, Board committees, or senior management, as the case may be, containing at a minimum the following information and documents:

- (a) The Board's annual review of the adequacy of (i) the level of Coverage Assets, (ii) assessment amounts, and (iii) assessment methodologies.
- (b) The Board's assessment of the need for additional risk management tools.
- (c) The Board's qualitative assessment or evaluation of CIPF's performance and achievements relative to the CIPF Mandate and strategic plan.
- (d) A certification by CIPF's chief executive officer, or other officer, that CIPF is in compliance with the terms and conditions applicable to it in this Approval Order.

6. Financial Reporting

- (a) CIPF will file with the Superintendent unaudited financial statements with notes within 60 days after the end of each financial semi-annual period.
- (b) CIPF will file with the Superintendent audited annual financial statements accompanied by the report of an independent auditor within 90 days after the end of each fiscal year.

7. Other Reporting

- (a) CIPF will provide the Superintendent on a timely basis with the following information and documents upon completion of review or approval by the Board, Board committees, or senior management, as the case may be:
 - (i) the financial budget for the current year, together with the underlying assumptions, that have been approved by the Board;
 - (ii) enterprise risk management reports, and any material changes to enterprise risk management methodology;
 - (iii) CIPF's strategic plan;
 - (iv) CIPF's annual report; and

- (v) material changes to the Board and employee codes of conduct, which include policies for managing conflicts of interest.

- (b) CIPF will provide the Superintendent with reasonable prior notice of any document that it intends to publish or issue to the public or to any category of SRO Members which, could have a significant impact on:
 - (i) CIPF's ability to carry out the CIPF Mandate;
 - (ii) SRO Members; and
 - (iii) the capital markets generally, including, for greater clarity, particular stakeholders or sectors.