

**13.1.4 Notice of Commission Approval –
Housekeeping Amendments to IDA By-law No.
20 Regarding Association Hearing Processes**

**THE INVESTMENT DEALERS ASSOCIATION (IDA)
NOTICE OF COMMISSION APPROVAL
HOUSEKEEPING AMENDMENTS TO
IDA BY-LAW NO. 20
REGARDING ASSOCIATION HEARING PROCESSES**

The Ontario Securities Commission approved amendments to IDA By-law No. 20 regarding hearing processes. In addition, the Alberta Securities Commission did not disapprove and the British Columbia Securities Commission did not object to these amendments. The amendments are housekeeping in nature. The amendments ensure that By-law No. 20 meets the requirements of Quebec law for hearings related to Quebec members and approved persons. The description and a copy of the amendments are contained in Appendix “A” and Appendix “B” respectively.

“APPENDIX A”

**INVESTMENT DEALERS ASSOCIATION
OF CANADA – BY-LAW 20**

I OVERVIEW

A -- Current Rules

By-law 20 is the primary rule for the IDA hearing processes. A substantial overhaul of By-law 20 was approved by the CSA April 2004.

B -- The Issue

The IDA is in the process of obtaining recognition as a self-regulatory organization in Quebec. Discussions entered into with the Autorite de Marches Financiers (“AMF”) during the Recognition Process revealed the need to make certain changes to By-law 20 so as to ensure that it is in line with Bill 107 and meets with the approval of the AMF.

C -- Objective

The proposed changes seek to ensure that By-law 20 complies with Quebec law and the requirements of the AMF.

D -- Effect of Proposed Rules

The proposed rules will ensure that By-law 20 meets the requirements of Quebec law for hearings related to Quebec members and approved persons.

II DETAILED ANALYSIS

A -- Present Rules, Relevant History and Proposed Policy

The proposed amendments to By-law 20 are outlined below:

Proposed Amendments To By-Law 20

*Increased Number Of Public Members & Former Judges
On Quebec Hearing Committee*

The number of public members to be appointed to the Hearing Committee in Quebec will be increased from three to four and the number of former judges will be increased from one to two. This change attempts to ensure that there are sufficient public members and former judges on the Quebec Hearing Committee to accommodate any Quebec hearings and appeals.

*Increase In Number Of Quebec Residents Sitting On Board
Panel Re Membership Hearings*

The number of Quebec residents required on a Board Panel that presides over a Membership review hearing will be increased from one to two such that two-thirds of the Board Panel (comprised of three Board members) shall be Quebec residents.

Place and Language of Quebec Hearings

A rule has been added to By-law 20 providing that any hearing required to be held under By-law 20 shall be held in Quebec and that the parties may present their case in French, both verbally and in writing.

Composition of Appeals of Quebec Disciplinary Decisions

A rule has been added to By-law 20 that will require that all three members of the Appeal Panel that presides over appeals of disciplinary matters to be resident in Quebec.

Rule Re Public Nature of Proceedings

The rule pertaining to public and in camera proceedings has been modified as it pertains to proceedings held in Quebec. The new rule was added to By-law 20 so as to mirror the test and rule pertaining to public and in camera proceedings as set out in Bill 107 and as per the AMF's request.

B -- Issues and Alternatives Considered

Discussions were entered into with the AMF regarding By-law 20 and its' compatibility with Quebec Law, and in particular, Bill 107. The comments of the AMF and Bill 107 were considered.

C -- Comparison with Similar Provisions

The requirements of Bill 107 were considered when developing the proposed amendments to By-law 20.

D -- Systems Impact of Rule

The amendments to By-law 20 do not have any impact on systems.

E. -- Best Interests of the Capital Markets

The Board has determined that the housekeeping amendments to By-law 20 are not detrimental to the best interests of the capital markets.

F -- Public Interest Objective

The proposed amendments serve to ensure that By-law 20 complies with the requirements of the AMF and Bill 107.

The proposal does not permit unfair discrimination among customers, issuers, brokers, dealers, members or others. It does not impose any burden on competition that is not necessary or appropriate in furtherance of the above purposes.

The amendments are believed to be housekeeping in nature as they are intended to clarify existing rules for application in Quebec.

III COMMENTARY

A -- Filing in Other Jurisdictions

These proposed amendments will be filed for approval in Alberta, British Columbia and Ontario and will be filed for information in Nova Scotia and Saskatchewan.

B – Effectiveness

A thorough assessment of the effectiveness of the proposed rules in addressing the issues was undertaken.

C -- Process

Discussions were entered into with the AMF so as to determine what, if any, amendments were required to By-law 20 to ensure consistency with Quebec law.

IV SOURCES

Bill 107 was referred to and considered when developing the amendments to By-law 20.

V OSC REQUIREMENT TO PUBLISH FOR COMMENT

The IDA is required to publish for comment the accompanying Policy so that the issue referred to above may be considered by OSC staff.

The Association has determined that the entry into force of the proposed amendments is housekeeping in nature. As a result, a determination has been made that these proposed rule amendments need not be published for comment.

Questions may be referred to:

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Enforcement Policy Counsel
Enforcement Department
Investment Dealers Association of Canada
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“APPENDIX B”

INVESTMENT DEALERS ASSOCIATION OF CANADA

PROPOSED AMENDMENTS TO BY-LAW 20

THE BOARD OF DIRECTORS of the Investment Dealers Association hereby makes the following amendments to the By-laws, Regulations, forms and Policies of the Association:

BY-LAW 20

1. By-law 20.10(5) is amended by:

adding the word “and” immediately prior to the words “the Pacific; and

deleting the words “and Quebec”.
2. By-law 20.10(6) is re-numbered as By-law 20.10(7).
3. By-law 20.10(7) is re-numbered as By-law 20.10(8).
4. The following provision shall be added as By-law 20.10(6):

“The Quebec District Council shall appoint a minimum of four public members, two of which shall be former judges, to its Hearing Committees.”
5. By-law 20.22(3) is amended by:

replacing the word “one” immediately preceding the phrase “of the members of the Board Panels shall be resident in Quebec” with the word “two”.
6. By-law 20.51 is amended by adding the following two subsections immediately following subsection (1):

(2) In Quebec, the Appeal Panel shall be comprised of three members resident in Quebec, one of them being a former judge appointed by the Quebec District Council as a Public Member.

(3) Any hearing required by the present By-Law in Quebec should be held in Quebec and the parties could present in French both verbally and in writing.

PASSED AND ENACTED BY the Board of Directors this 13th day of June 2004, to be effective on a date to be determined by Association staff.

INVESTMENT DEALERS ASSOCIATION OF CANADA

PROPOSED AMENDMENTS TO BY-LAW 20

THE BOARD OF DIRECTORS of the Investment Dealers Association hereby makes the following amendments to the By-laws, Regulations, forms and Policies of the Association:

BY-LAW 20

1. By-Law 20.55 is amended by adding the following subsection immediately following subsection (2).

(3) Notwithstanding subparagraph (1) and (2), in Quebec, any disciplinary or disciplinary appeal panel must be public. However, such disciplinary or disciplinary appeal panel may on its own initiative or on request, order a closed-door hearing or prohibit the publication or release of information or documents in the interest of good morals or public order.

PASSED AND ENACTED BY the Board of Directors this 21st day of July 2004, to be effective on a date to be determined by Association staff.

BY-LAW 20

ASSOCIATION HEARING PROCESSES

20.10 Appointment of Public Members to Hearing Committees

- (1) The Nominating Committee shall nominate public members of the Hearing Committee.
- (2) The Nominating Committee shall consider for nomination as a public member only those persons who are:
 - (a) resident in the District; and
 - (b) currently or have been qualified to practice law in any Canadian jurisdiction.
- (3) No person shall be eligible to be appointed as a public member or be permitted to continue to serve his or her term of appointment as a public member if he or she represents any parties to hearings under By-law 20 during the course of his or her appointment to a Hearing Committee.
- (4) The Nominating Committee shall review the suitability, fitness and qualifications of each person nominated as a public member of the Hearing Committee.
- (5) The District Councils of Alberta, Ontario, ~~and the Pacific and Quebec~~ shall each appoint a minimum of three public members, one of which shall be a former judge, to their respective Hearing Committees.
- (6) The Quebec District Council shall appoint a minimum of four public members, two of which shall be former judges, to its Hearing Committee.
- (~~7~~) The District Councils of Manitoba, New Brunswick, Nova Scotia and Saskatchewan shall each appoint a minimum of two public members, one of which shall be a former judge, to their respective Hearing Committees.
- (~~8~~7) The District Councils of Newfoundland and Prince Edward Island shall each appoint a minimum of one public member to sit on their respective Hearing Committees, between the Hearing Committees of these two Districts, there shall be one former judge.

20.22 Review Hearings

- (1) Association Staff or the Applicant may request a review of a membership approval decision by a Board Panel within thirty business days after release of the decision
- (2) If a review is not requested within thirty business days after release of the decision, the membership approval decision becomes final.
- (3) The review hearing shall be presided over by a panel of the Board of Directors comprised of one independent member of the Board of Directors and two industry members of the Board of Directors, and where the Applicant is a Quebec firm, at least ~~two~~one of the members of the Board Panel shall be resident in Quebec. No member of the Executive Committee of the Board of Directors who participated in the making of the membership approval decision shall be a member of the Board Panel.
- (4) A review hearing held under this Part shall be held in accordance with the IDA Rules of Practice and Procedure.
- (5) The Board Panel may:
 - (a) affirm the decision;
 - (b) quash the decision;
 - (c) vary or remove any terms and conditions imposed on Membership;
 - (d) limit the ability to re-apply for approval for such period of time as it determines just and appropriate; and
 - (e) make any decision that could have been made by the Executive Committee pursuant to By-law 20.21.
- (6) No appeal shall be available from the decision of the Board Panel.

20.51 Composition of Appeal Panel

- (1) The Appeal Panel shall be comprised of:
 - (a) one independent member of the Board of Directors;
 - (b) one industry member of the Board of Directors; and

- (c) one former judge, who is a public member of a Hearing Committee of the District in which the disciplinary hearing or expedited review hearing was heard, or a former judge who is a public member of a Hearing Committee of a District, other than that in which the hearing or expedited review hearing was heard, if the two chairs of the respective Hearing Committees consent.
- (2) In Quebec, the Appeal Panel shall be comprised of three members resident in Quebec, one of them being a former judge appointed by the Quebec District Council as a public member.
- (3) Any hearing required by the present By-law in Quebec should be held in Quebec and the parties can present in French both verbally and in writing.

on request, order a closed-door hearing or prohibit the publication or release of information or documents in the interest of good morals or public order.

PART 12 - PUBLIC HEARINGS

20.55 Public Hearings

- (1) The following types of hearings shall be open to the public subject to subsection (2):
- (a) settlement hearings, after a Settlement Agreement has been accepted by Hearing Panel, pursuant to By-law 20.36;
- (b) disciplinary hearings pursuant to By-law 20.33 and By-law 20.34;
- (c) expedited review hearings pursuant to By-law 20.47; and
- (d) enforcement appeal hearings pursuant to By-law 20.50.
- (2) The hearings prescribed in subsection (1) shall be held in the absence of the public where the Hearing Panel or Appeal Panel is of the opinion that the desirability of avoiding disclosure, of intimate financial, personal or other matters, in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be public.
- (3) Notwithstanding subparagraph (1) and (2), in Quebec, any disciplinary or disciplinary appeal panel must be public. However, such disciplinary or disciplinary appeal panel may on its own initiative or