

**OVERSIGHT REVIEW REPORT OF IROC's
REGISTRATION AND MEMBERSHIP
FUNCTIONS**

2010

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I. EXECUTIVE SUMMARY

1. Background

The Investment Industry Regulatory Organization of Canada (IIROC) is the national self-regulatory organization (SRO) that oversees all investment dealers, as well as trading activity on debt and equity marketplaces in Canada.

IIROC is recognized as an SRO by the Alberta Securities Commission (ASC), l'Autorité des marchés financiers (AMF), British Columbia Securities Commission (BCSC), the Financial Services Regulation Division, Department of Government Services, Consumer & Commercial Affairs Branch (Newfoundland and Labrador), Manitoba Securities Commission (MSC), New Brunswick Securities Commission, Nova Scotia Securities Commission, Ontario Securities Commission (OSC), the Securities Office, Consumer, Corporate and Insurance Division, Office of Attorney General (Prince Edward Island), and the Saskatchewan Financial Securities Commission (SFSC) (collectively, the Recognizing Regulators (RRs)).

The RR's rely on IIROC to carry out certain regulatory functions, detailed in Recognition Orders (ROs). IIROC is subject to the terms and conditions (T&Cs) within the ROs as it carries out these functions. Most RR's have also officially delegated to IIROC the authority to grant registration to firms, individuals, or both. The RR's have formal oversight programs for IIROC, which include periodic oversight reviews to assess whether IIROC meets the T&Cs set out in the ROs.

2. Purpose and scope of this review

In March 2010, staff of the AMF, BCSC and OSC (the Participating RR's) conducted a review (the 2010 Registration review) of IIROC's Registration functions performed at the Montreal, Vancouver and Toronto Offices respectively. The overall objective of the 2010 Registration review was to evaluate whether IIROC's Montreal, Vancouver and Toronto Offices were carrying out their registration mandate in accordance with the requirements of the applicable ROs. To achieve this objective, the Participating Regulators assessed:

- The adequacy of IIROC's processes, policies and procedures related to reviews of registration applications;
- Whether these policies and procedures were followed in practice;
- The quality and timeliness of the reviews of registration applications;
- The appropriateness of decisions made by IIROC staff relating to registration applications; and
- The adequacy of documentation of files related to registration application;

The Participating RR's coordinated the timing of the review and evaluated the three IIROC offices using the same review program. As IIROC's Principal Regulator¹, OSC staff coordinated

¹ The Principal Regulator is the RR designated by the other RR's to be responsible for coordinating the RR's' review of an SRO's submissions, such as rule proposals; coordinating the oversight reviews; and arranging and chairing CSA/IIROC oversight committee meetings.

the review.

The 2010 Registration review focused on the period from September 28, 2009 to February 28, 2010. September 28, 2009 was chosen as the start point because it is the effective date of amendments to IIROC's Dealer Member Rules to implement the Registration Reform Project, and also the date that National Instrument 31-103 *Registration Requirements* (NI 31-103) came into force. However, where necessary to properly assess the adequacy of IIROC's processes, the Participating RRs extended the period under review to before September 28, 2009.

3. Consolidated report

This report consolidates the reports of the Participating RRs. AMF staff's report includes findings related to the registration functions performed at IIROC's Montreal office; OSC staff's report includes findings related to the registration functions performed by IIROC's Toronto head office; and BCSC staff's report includes findings related to the registration functions performed by IIROC's Vancouver office.

ASC and SFSC staff conducted their oversight review of the registration functions performed by IIROC's Prairie office in October and November 2009, as part of the first oversight review of IIROC. Their findings and recommendations are included in the oversight review report related to that review.

4. Prioritization of report recommendations

The recommendations in this report have been prioritized as high, medium and low based on their significance and expected timeline for implementation:

High – The issue is of significant importance or relates to a repeat finding of some significance. IIROC should take corrective action immediately and regularly report on its progress on implementing the recommendation.

Medium – IIROC should resolve the issue within a reasonable timeframe. IIROC may be required to report on its progress on implementing the recommendation.

Low – The issue was brought to management's attention for review and consideration.

5. Overall Assessment

The AMF, BCSC and OSC staff found that IIROC's Montreal, Vancouver and Toronto offices were carrying out their registration mandate in accordance with the requirements of the applicable recognition orders. Staff, however, identified certain areas for improvement. Our findings and recommendations on how they can be addressed are outlined in the report.

II. TORONTO HEAD OFFICE

1. Background

Section 21.5(2) of the *Securities Act* (Ontario) (the Act) allows the OSC Executive Director to assign, with the approval of the Commission, any of its registration powers and duties under Part XI of the Act, subject to any terms and conditions it may impose, to an SRO recognized under the Act. The ROs require IIROC to conduct the functions delegated to it by the RRs, including registration functions.

Currently, the following powers and duties are assigned to IIROC by the OSC Executive Director:

- Reviewing and making decisions regarding applications for registration, applications for reinstatement of registration and applications for amendment of registration from individuals; and
- Imposing applicable terms and conditions on individuals.

In addition to the duties and powers assigned to IIROC, the OSC relies on IIROC to perform other functions related to the registration of individuals. For example, OSC staff rely on IIROC's review of exemptions from proficiency requirements.

2. Assessment of findings related to the Registration department of the Toronto head office

Generally, OSC staff had no concerns with the staffing and organizational structure of the Registration department of the Toronto head office. In addition, OSC staff found that the processes for reviewing registration application and the documentation of related files were generally adequate. Nevertheless, OSC staff identified a number of areas for improvement and made recommendations to address them. Key recommendations include: adopting follow-up procedures to monitor whether Members file Notices of Termination within the required time period; checking all relevant databases when reviewing applications for registration; more follow-up on potential issues identified in the process of reviewing applications; and revising the processes for processing applications for exemptions through the National Registration Database (NRD) to ensure that exemptions are processed in conjunction with the related applications for registration. The detailed findings and recommendations are listed in the report.

3. Department organization and reporting structure

Background information

At the time of the review, IIROC Registration department had 23 staff members including:

- 11 Senior Registration Officers that report to the Manager, Registration;
- four Registration Officers and a Registration Clerk that report to the Supervisor, Registration;
- one Registration Research Officer (RRO) that reports directly to the Director, Registration; and

- one Registration Business Analyst that reports directly to the Vice President, Registration & Complaints (VP).

The Manager and Supervisor report to the Director, Registration, who reports to the VP and ultimately to the Senior Vice President, Enforcement, Policy and Registration.

The IIROC Registration department had, on average, 21 staff members in 2007 and 2008. In 2009, the number of staff increased to 23. The IIROC Registration department has had low staff turnover. During the period from January 2007 to February 2010, the department had a 0% staff turnover rate, except in 2008 where the staff turnover rate was 4.8% due to a staff resignation.

IIROC Registration staff acknowledged or approved 4,470 change of category of registration submissions and 2,640 initial applications (which include reactivation of registration, registration in an additional jurisdiction, registration with an additional sponsoring firm, and reinstatement of registration submissions) between January 2009 and December 2009. In 2009, IIROC Registration staff also acknowledged or approved 16,089 notices, which include notices of termination, notices to amend an individual's Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* (Form 33-109F4), and notices to open or change a firm location.

The RRO is a new position that was created in 2009. The RRO is responsible for carrying out investigations involving applicants that raise suitability concerns and making recommendations regarding the suitability of such applicants for registration or IIROC approvals. In addition, the RRO analyzes and makes recommendations regarding applications for exemptions from proficiency requirements and performs the initial review of the registration or IIROC approval applications completed by Senior Registration Officers on a random basis. Between October 2009 (when the RRO joined IIROC) and December 2009, the RRO completed 17 suitability reviews and handled applications for exemption from proficiency requirements for 10 individuals. She conducts random audits of registration applications completed by Senior Registration Officers of five files per month.

The Senior Registration Officers are responsible for reviewing initial registration applications, change of category applications and material changes for existing registrants, while the Registration Officers are responsible for more administrative duties such as processing notices.

Staff findings

OSC staff have no concerns with the size and structure of the IIROC Registration department. We do have concerns with the number of responsibilities assigned to the RRO, i.e. investigations, proficiency exemptions and random audits of registration applications completed by the Senior Registration Officers.

Staff recommendations

Given the number of files that were under investigation by the RRO, OSC staff have concerns about the quality of the investigations being compromised given her numerous responsibilities and recommend that IIROC monitor this since it is a fairly new position.

Priority: Medium

IIROC's response:

IIROC Registration Management routinely monitors work load and open files of all Registration Staff, including the RRO, and files are reassigned to other Registration Staff as appropriate. For example, proficiency exemptions and suitability reviews have been reassigned from the RRO to a Senior Registration Officer where there have been workload issues. We have no existing concerns regarding the capacity of the RRO to conduct fit and proper reviews from both a quality and timeliness perspective or about our ability to reassign work where necessary.

Staff comments and follow up:

OSC staff have no further concerns.

4. Benchmarks

Background information

Prior to the implementation of NI 31-103 on September 28, 2009, IIROC's Registration department used the following benchmarks to measure its performance:

- 80% of all applications are either approved or the applicant will be sent a first deficiency letter within five business days; and
- All transfers of registration are completed within two business days provided no extenuating circumstances require a longer processing time.

The second benchmark above is no longer applicable subsequent to September 28, 2009 due to the new automatic reinstatement process under NI 31-103, where an individual's registration may be automatically reinstated if certain conditions are met.

IIROC advised us that, during the period from January 2007 to September 2009, the above benchmarks were met on average, except for the first three quarters in 2008. The first benchmark for review of new applications was not met through most of 2008 due to several factors including some staff turnover, training of new staff, and increased workload that resulted when the Newfoundland Securities Commission delegated the registration of investment dealers to IIROC's Toronto Head Office.

IIROC advised that during the period from October 2009 to February 2010, the first benchmark was not met primarily due to IIROC Registration staff and industry members learning the new processes related to the implementation of NI 31-103.

Staff findings

OSC staff consider the explanations for not meeting the benchmark reasonable. We acknowledge that benchmarks are important but they should not compromise the quality of the review done by IIROC Registration staff, who must ensure they conduct sufficient analysis of complex issues and give adequate consideration to regulatory concerns.

Staff recommendations

None.

5. Communication with other IIROC departments, regional offices and the OSC

Background information

Staff of IIROC's Registration department regularly communicate with other IIROC departments in the course of reviewing applications. In addition, there are regular conference calls or meetings among IIROC Registration managers from all regional offices.

The OSC has delegated to IIROC the individual registration authority, but not the firm registration authority. As such, it is necessary that the OSC is informed of any information or updates regarding IIROC member firm registration in a timely manner. For certain acquisitions that are captured under sections 11.9 [*registrant acquiring a registered firm's securities or assets*] and 11.10 [*registered firm whose securities are acquired*] of NI 31-103, the IIROC member firm must give the regulator (i.e. the OSC) written notice for the proposed acquisition. If the regulator objects to the acquisition, the acquisition must not occur until the regulator approves it. The IIROC member firm must also give IIROC a notice of the corporate transaction and IIROC reviews or approves the transaction pursuant to IIROC Dealer Member Rules. IIROC's Membership Coordinator is responsible for coordinating IIROC's review of corporate amendments and effective communication among IIROC's Membership Coordinator, IIROC's Registration and the OSC is important.

Staff findings

Based on discussions and review of files, OSC staff noted that IIROC Registration staff communicate with IIROC Enforcement staff where appropriate to obtain information about applicants under investigation. IIROC Registration staff also request information from the OSC regarding applicants who were previously registered with firms that are not IIROC members, where appropriate.

OSC staff found that the communication between IIROC and the OSC relating to review and processing of corporate amendments, including acquisitions that require approval under sections 11.9 or 11.10 of NI 31-103 and IIROC Dealer Member Rules, needs improvement. For example, there was one shareholder change transaction that should have been reviewed and approved by both the OSC and IIROC. The IIROC member firm notified IIROC and IIROC approved the transaction pursuant to its Dealer Member Rules; however, the firm did not send any written notice to the OSC as required under sections 11.9 and 11.10 of NI 31-103. As a result of OSC staff's review of this file, IIROC followed up with the firm and the firm submitted shareholder filings to the OSC six months after the transaction. Since IIROC has not been delegated firm registration in Ontario, it is important that both IIROC and the OSC communicate and coordinate in a timely manner when they review corporate transactions to ensure that regulatory requirements are met. This information may impact a firm's continuing suitability for registration.

IIROC's approvals of company amendments pursuant to IIROC Dealer Member Rules are communicated to the public and the OSC through IIROC notices. However, there are no IIROC notices published for member firms' addition or removal of trade names. The approved trade names are added to IIROC's internal database and not communicated to the OSC. Since trade names affect firm registration, it is important that the OSC is informed of matters that affect firm registration in a timely manner.

Staff recommendations

OSC staff recommend that a more efficient process be implemented to enhance communication between IIROC and the OSC regarding IIROC member firms' corporate amendments, including firms' name change, trade names addition or removal, and acquisitions that require OSC's approval under sections 11.9 or 11.10 of NI 31-103. Also, IIROC Registration staff should immediately follow up on filings on NRD after IIROC's approval of a corporate amendment that requires NRD filings, such as a shareholder change.

Priority: High

IIROC's response:

Most corporate amendments are coordinated through IIROC's General Counsel's Office and often involve a coordinated review among several IIROC departments, including IIROC Registrations depending on the nature of the amendment under review. Historically OSC Staff have indicated that they would rely on public membership notices to be apprised of certain corporate changes and/or have never expressed a desire to receive direct communications from IIROC about the items listed in the Staff recommendations. As IIROC has not been delegated firm registration by the OSC, IIROC Dealer Members have an obligation under NI 31-103 and NI 33-109 to advise and deal with the OSC directly on such corporate matters separate and apart from their obligations to IIROC under IIROC's Dealer Member Rules. IIROC would be pleased, however, to discuss a protocol for advising OSC Staff of corporate amendments that are under consideration by IIROC, but we would encourage OSC Staff to clearly articulate precisely what type of information they would like to receive from IIROC. We would also expect, however, that OSC Staff will follow up directly with firms for matters that require specific OSC approval or filings.

In terms of shareholder changes that require NRD filings, it is IIROC Registration practice to follow up with firms to ensure they make the appropriate NRD filings, recognizing that the obligation ultimately rests with the IIROC Dealer Members to make the required filings within the required time lines. We acknowledge that in the one shareholder change transaction cited by OSC Staff above that our follow up with the firm was not as timely as it should have been and the importance of timely follow up has been reiterated to IIROC Registration Staff.

Staff comments and follow up:

Although it is the IIROC member firm's responsibility to notify the OSC, OSC staff will continue to work with IIROC staff to enhance communication and coordination on these matters to ensure that firm registration is current and registration requirements have been met by the IIROC member firm.

6. Training and supervision

Background information

The Manager, Registration trains the Senior Registration Officers and the Director, Registration trains the RRO. New Senior Registration Officers are trained one-on-one and, for the first two to three weeks of their employment, are introduced to the applicable rules and processes. For the

next four to six months, the Manager, Registration performs a secondary review of all the new Senior Registration Officers' review of applications.

The Supervisor, Registration trains all Registration Officers. The more senior Registration Officers also provide guidance to the new Registration Officers for about two weeks to assist them in learning their duties.

As a result of the implementation of NI 31-103, all IIROC Registration staff attended a two day interactive workshop and training session.

Regarding the on-going supervision of Registration staff, the Manager, Registration performs a secondary review of all applications that have potential suitability and/or conflict of interest issues. The RRO assists the Manager, Registration in conducting a secondary review, on a test or random basis, of registration applications completed by the Senior Registration Officers.

The Manager, Registration meets with the Senior Registration Officers monthly and sometimes on a more frequent basis, if needed, to review new items or issues that warrant closer review.

The Supervisor, Registration is responsible for supervising the Registration Officers and meets with the Registration Officers on an informal basis.

The Director, Manager, Supervisor, RRO and the administrative assistant of IIROC's Registration department meet on a bi-weekly basis.

The VP, Director, Manager and Supervisor meet on a weekly basis; the regional managers of the Pacific office, Prairie office and Quebec office attend these meetings via conference call.

Staff findings

Management of IIROC's Registration department have frequent meetings. However, staff noted that the Senior Registration Officers meet only monthly as a group, and the Registration Officers meet on an informal basis. In light of all the changes in registration rules and processes relating to the implementation of NI 31-103 and IIROC rule amendments, OSC staff are concerned that the Senior Registration Officers and the Registration Officers do not have more frequent team meetings to discuss issues and share information for training and development purposes.

Staff recommendations

For training and development purposes, IIROC may consider more frequent meetings for its Registration staff to discuss issues, share information, and ensure staff's processes are consistent. More frequent meetings also ensure consistency in dealing with issues when processing registration applications or notices.

Priority: Medium

IIROC's response:

A comprehensive training manual and in person staff training session was rolled out to all Registration Staff in connection with Registration Reform. Registration Managers also meet regularly with their staff complement both on an individual and group basis to review files,

discuss issues, share information, and ensure staff's processes are consistent. Ad hoc meetings to discuss practice and training issues are convened as required. We also use regular e-mail communication and have a SharePoint site that is accessible to all staff to keep track of and discuss the resolution of novel registration issues – an important knowledge management tool. We do not see an immediate need to conduct more frequent meetings at this time.

Staff comments and follow up:

OSC staff have no further concerns.

7. Policies and Procedures

7.1 IIROC Registration Operations Manual

Background information

To reflect the changes and requirements under NI 31-103, IIROC Registration has established an *IIROC Registration Operations Manual* (IIROC Manual) dated April 2010 that builds upon the *Canadian Securities Administrators (CSA) Registration Operations Manual* (CSA Manual) that was developed in September 2009 with input from IIROC Registration.

The IIROC Manual is a nation-wide manual that is adopted by all IIROC regional offices, and it covers the following areas:

- an overview of the national registration rules, relevant IIROC rules, and passport / interface registration;
- registration of firms and individuals;
- assessing suitability for registration and making registration decisions;
- proficiency and continuing education requirements;
- the role and responsibilities of District Councils with respect to registration matters; and
- benchmarks.

Staff findings

The IIROC Manual is a comprehensive manual that contains useful information and references. However, OSC staff found one instance where the IIROC Manual is not properly tailored to IIROC Ontario operations:

The IIROC Manual (pages 196 to 197) and the CSA Manual (pages 200 to 202) state that if the terminating individual is a Chief Compliance Officer (CCO) or Ultimate Designated Person (UDP), Registration staff must ensure the firm has filed an application to replace the terminating CCO or UDP. If the firm has not made an application for a replacement in a reasonable period of time (generally two weeks), the Director will impose terms and conditions on the firm's registration. The IIROC Manual is the same as the CSA Manual in stating that a firm should find a replacement CCO or UDP in a reasonable period of time (generally two weeks).

Since the OSC has not delegated firm registration authority to IIROC, IIROC should inform the

OSC as soon as possible when an IIROC member firm does not have a qualified CCO or UDP, so terms and conditions can be imposed on the firm's registration. The IIROC Manual does not describe the procedures to refer such matters to the OSC.

Staff recommendations

OSC staff recommend that IIROC include appropriate procedures in the IIROC Manual to inform the OSC immediately when IIROC member firms do not have a qualified CCO or UDP.

Priority: High

IIROC's response:

With the implementation of Registration Reform OSC Staff did not communicate an expectation that they would like to be informed each time a CCO and UDP vacancy arises at an IIROC Dealer Member. We would be pleased, however, to develop a referral protocol with OSC Staff relating to UDP and CCO registrations. In this regard, we would suggest that it would be appropriate and reasonable for IIROC Staff to refer a matter to the OSC to consider terms and conditions on the firm's registration where the firm has not taken interim steps to fill the vacancy (for example, within the 90 day period prescribed under IIROC Dealer Member Rule 38) or where a permanent replacement has not been found after the expiry of the 90 day time period.

Staff comments and follow up:

OSC staff will work with IIROC to develop a process to ensure that the OSC will be informed in a timely manner when there is a CCO or UDP vacancy with no immediate replacement.

7.2 Procedures to follow up on incomplete termination notices

Background information

As part of the implementation of NI 31-103, Form 33-109F1 *Notice of Termination of Registered Individuals and Permitted Individuals* (Notice of Termination) was revised to allow the Notice of Termination to be filed in two sections. The first section must include the date of and the reason for the termination, and it must be filed within five business days of the individual's effective date of termination.

The second section of the Notice of Termination, which outlines the details of the circumstances resulting in the individual's termination, must be submitted within 30 days of the termination date to allow the sponsoring firm more time to compile information in this regard.

To ensure that the second section of the Notice of Termination is filed by member firms in a timely manner, the IIROC Manual and the CSA Manual describe that Registration staff should generate the Termination Follow-up Report weekly through the NRD and follow up with member firms on the incomplete Notices of Termination as shown in the report.

Staff findings

Based on OSC staff's discussions with IIROC, OSC staff found that IIROC Registration staff do not generate the Termination Follow-up Report to monitor whether member firms are filing completed Notices of Termination within the required time period, and do not follow up on

incomplete Notices of Termination.

Staff recommendations

IIROC should ensure that the termination follow-up procedures are followed by its Registration staff. It is important to ensure that firms are filing Notices of Termination within the required time period. If IIROC Registration staff do not generate the Termination Follow-up Report to ensure that the second section of the Notices of Termination are filed, they may not obtain the important information relating to the individual's termination which may reflect on the individual's suitability for registration.

Priority: High

IIROC's response:

We acknowledge that IIROC Registration Staff were not generating a Termination Follow-up Report through NRD. IIROC Registration Staff were, however, manually tracking and monitoring whether member firms were filing completed Notices of Termination within the required time periods. We began using the electronic follow up report on April 14, 2010 and this continues to be our process.

Staff comments and follow up:

OSC staff have no further concerns.

7.3 Database searches

Background information

When reviewing applications for registration, IIROC Registration staff are required to check internal and external databases as outlined in the checklists for reviewing registration applications. Information collected from these databases may contain information that reflects on the applicant's suitability for registration.

Staff findings

Through discussions with IIROC and review of IIROC's checklists, OSC staff found that IIROC Registration staff do not check the Financial Services Commission of Ontario (FSCO) database for applicants who indicate that they have an insurance license or have an employment history relating to sale of insurance. This database should be checked to verify the applicant's licensing, as well as disciplinary history, under both the insurance and mortgage broker licenses, in order to properly assess the individual's suitability for registration under the *Securities Act (Ontario)* (the OSA).

Since March 2010, OSC Registration staff have started checking the disciplined persons list on the CSA website. This list reveals the names of all persons disciplined by CSA members. IIROC Registration staff, however, do not check the disciplined persons list on the CSA website.

Based on OSC staff's review of sampled applications for registration and discussion with IIROC, OSC staff found that IIROC Registration staff do not check the enforcement database that

records all cases opened and investigated by IIROC's Enforcement groups, the Case Tracking System (CTS), if the applicant has never been registered with IIROC before. IIROC Registration staff explained that if an individual has never been registered with IIROC before, there would be no corresponding information to report on this individual in CTS. Also, OSC staff found that IIROC Registration staff do not check the public inquiries and complaints log maintained by IIROC's Case Assessment because the information recorded in the log is currently limited to the date of the call, name and phone number of the caller. OSC staff were informed that enhancements to CTS to allow for the tracking of all public inquiries and complaints are underway.

Staff recommendations

OSC staff recommend that IIROC Registration staff check the FSCO database (where appropriate) and the disciplined persons list on the CSA website. OSC staff acknowledge that IIROC Registration staff have started checking the disciplined persons list since August 2010.

Furthermore, OSC staff recommend that IIROC track the content of all public inquiries and complaints, regardless of whether they relate to IIROC registrants, in addition to the date and contact information of the caller. IIROC Registration staff should check the enhanced public inquiries and complaints log or database for all applicants as it is important for determining suitability for registration.

Priority: High

IIROC's response:

Database searches – (i) FSCO database: We have changed our process to check the Insurance Licensing Database (and to undertake follow up with FSCO if appropriate) when an applicant identifies that they are insurance licensed.

(ii) CSA Disciplined Persons List: IIROC Registration Staff have been checking the disciplined persons list since August 2010 for reinstatements, initials and reactivations, change/surrender individual submissions, and additional sponsoring firm filings. Prior to the use of the disciplined persons list, IIROC ON would request a detrimental check directly from the OSC for any individual who was previously on the OSC platform which would have revealed any previous OSC enforcement proceedings against the individual. Similarly, Staff reviews NRD Regulatory Notes related to the individual which should provide disclosures of any CSA disciplinary actions against the individual as required by the NRD operational protocol which required each regulator to input their enforcement related information into NRD. We do not believe there has been any gap in our checks as we have been relying on other sources which would provide disclosure of the same information about disciplinary history. We agree, however, that the CSA's disciplined list is a good consolidated tool for conducting checks and we have begun using it in our reviews. In addition we continue to request detrimental checks directly from the OSC.

(iii) Public Inquiries and Complaints: As previously discussed with OSC Staff, IIROC is in the process of creating a separate complaint and inquiries unit to be the first point of contact for all public complaints and inquiries relating to dealer member conduct. In connection with the creation of this unit, systems and protocols are being developed to better track all incoming complaints and inquiries. IIROC Registrations will consider modifications to its internal checks

once the new unit is functioning as the current call log maintains very limited information regarding complaints and inquiries received by IIROC that relate to non IIROC approved persons. IIROC Registrations does check CTS for all IIROC approved persons (both current and historical).

Staff comments and follow up:

OSC staff have no further concerns.

7.4 Posting recommendations regarding passport applications on NRD

Background information

Prior to the implementation of NI 31-103, when an applicant applied for registration in more than one jurisdiction, or when a registered individual applied for registration in additional jurisdictions, the principal regulator was required to make a recommendation to the other non-principal regulators to register the individual in the non-principal jurisdictions.

Currently under Multilateral Instrument 11-102 *Passport System* (MI 11-102) and National Policy 11-204 *Process for Registration in Multiple Jurisdictions* (NP 11-204), the principal regulator is not required to make a recommendation to other non-principal regulators, because the principal regulator makes a decision on behalf of non-principal regulators.

Staff findings

OSC staff found that IIROC Registration staff continue to post recommendations to non-principal regulators regarding applications filed under the passport system. This is done by posting regulatory notes to the application on NRD, which include details regarding the applicant as well as staff's recommendation regarding the application.

Staff recommendations

IIROC should not post recommendations to non-principal regulators regarding applications for registration filed under the passport system on NRD, because the principal regulator makes a decision on behalf of non-principal regulators pursuant to MI 11-102 and NP 11-204.

Priority: Low

IIROC's response:

IIROC ON staff was not making recommendations or waiting for non-principal regulators to provide a response in these filings. The information was included in NRD for record keeping purposes because NRD required some text in the field. IIROC ON has discontinued this practice and is simply inserting N/A (i.e., not applicable) in the Passport Interface Document Regulatory Note.

Staff comments and follow up:

OSC staff have no further concerns.

8. Electronic record keeping

Background information

National Instrument 31-102 *National Registration Database* (NI 31-102) requires all firms to use the NRD to make submissions and submit information in all Canadian jurisdictions. Regulators in different jurisdictions also use NRD to share information about registered firms and individuals. As such, the information input into NRD should be complete, accurate and transparent. All regulators should be adding information to NRD in a consistent manner.

IIROC Registration has a scanning system and dedicated staff to scan and store electronically all documents relating to staff's review of applications.

8.1 NRD working notes

Staff findings

IIROC Registration staff summarize deficiencies and the contents of applicants' email responses in the working notes on NRD. However, the working notes sometimes contain insufficient detail, and do not reflect the audit trail of email correspondence (e.g. to/from whom and when). IIROC Registration staff explained that all email correspondence with the applicants are separately scanned and stored electronically on IIROC's server, however, information on this server is not accessible by CSA staff.

Staff recommendations

Since NRD is a tool for all regulators in CSA jurisdictions, the contents and audit trail of email correspondence should be included in the working notes on NRD so that the information on NRD is complete, accurate and transparent.

Priority: Medium

IIROC's response:

We agree that NRD working notes should provide an audit trail of Staff's review of a file. IIROC's existing guidance to Staff in this area is that working notes should provide a record of: filing deficiencies identified by staff and firm responses; any "fit and proper" issues identified by staff; status of review; and the resolution of material issues identified in the file. It has not been IIROC's practice to "cut and paste" every e-mail communication to and from IIROC and firms on a particular filing as a complete audit trail of all communications otherwise exists in IIROC's files and we don't believe in many cases that an extract of each of these e-mails on NRD will add value to the regulators. We are working, however, on providing staff with additional guidance and practice tips in this area to ensure greater consistency across all staff.

Staff comments and follow up:

OSC staff have no further concerns.

8.2 Recording post licensing requirements

Staff findings

IIROC Registration staff record post licensing requirements with due dates by adding terms and conditions to registered individuals on NRD for tracking purposes. However, the post licensing requirements to complete proficiencies within specific time periods are specifically set out in IIROC's rules and therefore are not terms and conditions. Adding terms and conditions to an individual's NRD record resulted in it being posted on the OSC website, which might be misleading.

IIROC Registration staff informed OSC staff that internal IIROC discussions on eliminating the use of terms and conditions to track post licensing requirements began in July 2009. Effective June 14, 2010, a new post licensing requirements online system is implemented and IIROC Registration staff now record the due date as a regulatory note which is displayed on the new post licensing requirements online system.

Staff recommendations

None.

8.3 Integrity of electronic files

Staff findings

OSC staff found that all IIROC Registration staff have access to the scanned electronic files, and they can move or delete any of those files. Since all paper records are shredded after scanning and the scanned electronic files are the only records remaining, it is important that only authorized senior personnel can delete or move the scanned files.

Staff recommendations

OSC staff recommend that only authorized senior personnel can delete or move the scanned files in order to ensure data integrity.

Priority: Medium

IIROC's response:

We acknowledge the finding and will work with our IT department to enhance data integrity of our scanned electronic files.

Staff comments and follow up:

OSC staff have no further concerns.

9. Review of applications and notices

Background information

OSC staff randomly selected and reviewed the following sample of submissions:

- 23 Form 33-109F4s *Registration of Individuals and Review of Permitted Individuals* (Form 33-109F4);

- 25 Form 33-109F7s *Reinstatement of Registered Individuals and Permitted Individuals* (Form 33-109F7);
- 20 Form 33-109F1s *Notice of Termination of Registered Individuals and Permitted Individuals* (Form 33-109F1);
- 20 Form 33-109F2s *Change or Surrender of Individual Categories* (Form 33-109F2);
- 21 Form 33-109F5s *Change of Registration Information* (Form 33-109F5);
- 20 applications for exemptions from proficiency requirements;
- five applications for corporate amendments; and
- six applications for registration with an additional sponsoring firm.

Staff findings

Overall, OSC staff found that IROC Registration staff properly reviewed and processed applications and notices in a timely manner, except for the findings described below.

9.1 Follow up on employment disclosure

Background information

The Form 33-109F4 is filed by an applicant who is applying for initial registration or for reactivation of registration. Items 10 *Current employment, other business activities, officer positions held and directorships* and 11 *Previous employment and other activities* of the Form 33-109F4 require applicants to describe all employment and business activities related to their employer, and to include the nature of the business and their duties, title or relationship with the business.

Staff findings

Based on OSC staff's review of 23 Form 33-109F4s, there were three instances where the applicants did not provide all the details requested in items 10 and 11, and where IROC Registration staff did not follow up to obtain the details as required.

- In one application for initial registration that was submitted in December 2009, the applicant indicated that he left his previous employer to pursue employment with his current sponsoring firm. However, the applicant left his previous employer in 2002 and did not start working at his current sponsoring firm until 2006. The applicant's response in Form 33-109F4 that he left his previous employer to pursue employment with the new firm was inconsistent with the four year gap noted, and may suggest that the applicant's reason for leaving his previous employer is inaccurate. IROC Registration staff did not follow up with the sponsoring firm on the inconsistency.
- In another application, the applicant indicated that his previous employment duties consisted of 'RVP sales' at an investment firm. The applicant did not provide a complete response to the question as required on the form and the description implies that the applicant may have been engaged in registerable activities. However, IROC Registration staff did not follow up to confirm what the individual's duties were at the investment firm to determine whether the individual should have been previously registered.

- In another instance, an applicant applying for the Registered Representative registration described his employment with two previous employers as “CEO”. The applicant did not provide a complete response to the question that requested a description of the firm’s business, the applicant’s position and duties with the firm. Also, the applicant described his current employment duties as “Trainee” with no other details. Considering the applicant was a Chief Executive Officer (CEO) of the two previous employers and his immediate supervisor is the President of the current sponsoring firm, it is important to understand what the applicant’s duties would be after completion of the training program. Gathering more details relating to the applicant’s current and previous employment activities will help in determining suitability for registration.

Staff recommendations

IIROC Registration staff should ensure that all applicants provide a full and complete response to the information required in items 10 and 11 of Form 33-109F4. It is important to gather and analyze this information to determine the individuals’ suitability for registration.

Priority: Medium

IIROC’s response:

IIROC Registration Staff understand the importance of full and complete form completion. When reviewing any type of disclosure, including disclosure relating to current and previous employment, staff will consider whether the disclosure provided raises any “fit and proper” questions or concerns which in turn may warrant further questioning of the individual, further explanations or additional disclosures. Disclosures relating to current and previous employment are particularly relevant for: (i) assessing an individual’s competency to be registered or approved in a category that requires specific experience; or (ii) assessing whether the individual is conducting an outside business activity which may have an impact on the individual’s fitness for registration or IIROC approval. In this type of review, staff by necessity exercises judgment and will be guided by their own understanding of a number of things, including the business models of IIROC Dealer Members and different roles and functions within IIROC Dealer Members. In any review of the 33-109F4 IIROC seeks to ensure, first that material regulatory risks raised by the filing are addressed appropriately and, secondly that our reviews are efficient and timely.

In the 3 out of 23 filings cited by OSC Staff in their findings, IIROC Registration Staff did not believe that further follow up was required for the following reasons:

-The individual at issue was applying for registration as “Dealing Representative” and as a “Trader” in the IIROC approval category and was never previously registered. The individual was previously employed at an IDA regulated firm in a non-registerable capacity as a network administrator reporting to the head of Information Technology. Based on the individual’s title and reporting line, IIROC Staff did not require further disclosure to understand the nature of the individual’s previous job duties. While we acknowledge that the filing disclosed that the individual left his previous employer to pursue an opportunity with the new sponsoring firm, the submission also disclosed that he was unemployed for a period of four years before joining the new sponsoring firm. Given the individual had the requisite minimum proficiencies, there was no detrimental information in the filing, and there was no detrimental information discovered

through IIROC's background checks, Staff did not have any "fit and proper" concerns that warranted further questioning as to why the individual was unemployed during the intervening period.

-The individual at issue was the "RVP of sales" (i.e. regional vice president) of a venture capital firm that was not itself a registered firm. Given the previous employer was not a registered firm, the individual under review was seeking registration and IIROC approval in a category that did not otherwise prescribe an experience requirement and there was no detrimental information in the filing or our background checks, we did not believe additional information regarding the individual's previous employment duties would assist in our "fit and proper" review.

-In the last instance cited, the individual at issue was, for the first time, seeking registration as a "Dealing Representative" and IIROC approval as a "Registered Representative (Retail)". The description of Trainee in the filing was consistent with the fact that the individual was completing the Canadian Securities Course, the Conduct and Practices Handbook Course and the 90 day training program during the training period noted in the disclosure. Given the courses taken during the time period noted in the submission, it was clear to IIROC Staff that the individual was in fact a trainee in the process of becoming an IIROC approved Registered Representative. Staff did not see a reason therefore to probe for further information regarding his duties as this path is well understood on the IIROC platform. We further note that the two previous employers of the individual were non-registered firms and given the role and function of a CEO is well understood IIROC staff did not see a regulatory need to seek any further clarifications or explanations about the individual's job duties with those firms.

Staff comments and follow up:

OSC staff encourage IIROC staff to obtain complete and accurate responses from applicants because this information is important in assessing the applicants' suitability for registration. We will continue our dialogue with IIROC to ensure consistency in approach regarding assessing and documenting individuals' suitability for registration.

9.2 Follow up on registering UDPs

Background information

Under NI 31-103, a registrant firm must designate one UDP and the firm's UDP must be the CEO of the firm. All firms registered before September 28, 2009 were required to have a registered UDP and CCO by December 28, 2009. The UDP and CCO are both CSA registration categories and IIROC approval categories. UDPs and CCOs of IIROC member firms must be registered in the CSA registration categories and approved under the IIROC approval categories.

Staff findings

OSC staff reviewed 20 Form 33-109F2s *Change or Surrender of Individual Categories*, and noted two files that had issues. Further detail follows below.

UDP

In one of the files reviewed by OSC staff, an individual attempted to add the UDP category to his

registration since December 11, 2009 but the submission was withdrawn several times due to deficiencies. Based on discussions with IIROC Registration staff, the individual has been the UDP for the firm, in the IIROC approval category, for several years. Five months later (as of May 20, 2010), the individual was still not registered in the CSA registration category of UDP. This means that the firm continued to be without a registered UDP, which is inconsistent with subsection 25(5) of the OSA.

CEO title

In an application to remove an individual's UDP category, OSC staff found that the individual removed his CEO title in Ontario, however, the individual did not remove his CEO title in the other jurisdictions where the firm is registered. The individual's title was changed to Chairman and he was no longer the CEO. Since IIROC Ontario is the principal regulator of the firm, IIROC Registration staff should have followed up with the firm to ensure that the individual's officer title is consistent in all the jurisdictions. IIROC Registration staff have since contacted the firm to update the officer title for the other jurisdictions after OSC staff brought the issue to their attention.

Staff recommendations

IIROC Registration staff should follow up with firms to ensure that they have a UDP appropriately registered in the CSA registration category and that those individuals applying for registration categories such as UDP complete their applications in a timely manner. If a firm does not have an UDP or a CCO, this must be referred to the OSC in order that the OSC may impose terms and conditions on the firm. In addition, IIROC Registration staff should ensure that the individual's officer title is consistent in all relevant jurisdictions.

Priority: Medium

IIROC's response:

Vacant key supervisory positions (like UDP, CCO, and CFO) are immediately escalated to Registration managers upon IIROC being notified of such a vacancy or a notice of termination having been received. It is our practice to then follow up immediately with the firm to understand their plans for filling the vacancy and to ensure the firm has a plan in place to cover any gaps caused by the vacancy.

As per our response to the OSC Staff findings found under section 7.1 of this report, OSC Staff did not communicate an expectation that they would like to be informed by IIROC each time a UDP or CCO vacancy arises at an IIROC Dealer Member. We would be pleased, however, to develop a referral protocol with OSC Staff relating to UDP and CCO registrations. In this regard, we would suggest that it would appropriate and reasonable for IIROC Staff to refer a matter to the OSC to consider terms and conditions on the firm's registration where the firm has not taken interim steps to fill the vacancy (for example, within the 90 day period prescribed under IIROC Dealer Member Rule 38) or where a permanent replacement has not been found after the expiry of the 90 day time period.

With respect to the two examples cited by OSC Staff in their findings, our responses are as follows:

-UDP: The firm did have an individual IIROC approved UDP. The firm had not yet, however, sought the appropriate registration of the individual with the implementation of registration reform. We acknowledge that the firm should have filed the required 33-109F2 to add the applicable registration category, but we maintain that there was no regulatory risk that the firm did not have a qualified individual in an approved capacity responsible for supervising the activities of the firm and promoting compliance by the firm and its registered individuals. IIROC Registration issued numerous e-mail blasts to our Dealer Members reminding them of the deadline for submitting UDP and CCO registrations. While more proactive follow up with this particular firm could have occurred to ensure the correct form was filed, registration resources were directed toward what we believed were more material registration reform implementation issues.

-CEO title: We acknowledge that the firm failed to make all the necessary filings to correct the individual's title across all provinces and territories where he was registered. It should be emphasized, however, that at no time did the firm actually have two CEOs at one time and we don't believe that the inconsistency raised any regulatory risks warranting immediate follow up with the firm. The firm has since filed the necessary corrections.

Staff comments and follow up:

OSC staff maintain their comments. It is important to ensure that all IIROC member firms have an appropriately registered UDP and CCO according to NI 31-103.

9.3 Documentation

Background information

Please refer to the background section of Section 7 of this report for a description of the sample reviewed.

Staff findings

Based on OSC staff's review of the sampled applications, IIROC Registration staff's documentation in majority of the files was complete and adequate. However, some of the applications did not include documentation of all the factors taken into consideration in the course of IIROC Registration staff's review of applications. For example, OSC staff found that the documentation in one out of six applications for registration with an additional sponsoring firm and two out of 23 initial registration applications were deficient. Details follow below.

- In one application, IIROC took the position that it was going to recommend refusal of the application for registration, but then changed its position and recommended that the applicant be granted registration subject to terms and conditions. However, there was no documentation in the file regarding the information obtained and the analysis performed that led IIROC to change its decision. It was only after speaking with IIROC that OSC staff learned of the factors that were taken into consideration when IIROC changed its decision.
- In another application, there was no documentation as to whether IIROC Registration

staff reviewed how the individual would be properly supervised given the individual's non-resident status and dual employment. IIROC Registration staff indicated that based on their prior review of the sponsoring firm's supervisory structures, they were satisfied that the individual would be properly supervised. However, the prior review of the supervisory structure was not documented on the submission.

- In an individual's application with an additional sponsoring firm, the conflicts of interest question on the application was not answered by the applicant. IIROC Registration staff indicated that this question was not answered because the question is not applicable. IIROC Registration staff had a previous discussion with the sponsoring firm at the corporate level and that there were no conflicts of interest in this case due to the sponsoring firm's business structure. However, these questions on the application were not answered (e.g. explain why there is no conflicts of interest if it is not applicable).

Staff recommendations

IIROC Registration staff should ensure that all questions on applications filed through NRD are answered and that IIROC Registration staff's review of the applications are adequately and completely documented. Such documentation should include the factors considered in each application, and, if applicable, the reference to IIROC Registration staff's prior review of similar submissions.

Priority: Medium

IIROC's response:

We agree that registration files should contain a record or audit trail that details the scope of our reviews and the reasons/basis for our decisions and/or recommendations. We note that OSC Staff found that "based on OSC staff's review of the sampled applications, IIROC Registration staff's documentation in majority of the files was complete and adequate". In terms of the 3 out of 28 files reviewed and noted in the OSC Staff findings, our responses follow:

-We acknowledge that a memo to file could have been included in our records to summarize and recap the full review undertaken given the complexity of the file and the various applications considered because the individual transferred firms several times. We do believe, however, that the reasons for Staff's recommendation are clearly articulated in the ultimate submission that was filed with the Registration Subcommittee of the Ontario District Council where terms and conditions were recommended by Staff.

-In the second application cited by OSC Staff, the individual at issue was seeking registration as a Trader with an IIROC Dealer Member. The individual's activities with the IIROC member would be restricted to proprietary trading and the individual would not be trading on behalf of and/or advising clients. The individual was also employed and registered in the U.S. with an affiliate of the IIROC Dealer Member and was duly registered in the U.S. to trade on behalf of clients. Given the nature of the IIROC approval sought and Registration Staff's understanding of the firm's supervisory structures based on prior reviews and consultation with our Compliance group, the application did not, in IIROC Registration's view, raise any material substantive issues preventing approval of the application or which warranted further notations in the file.

-In the third application cited by OSC Staff, the IIROC firms involved in the filing are affiliated firms that are indirect wholly owned subsidiaries of a Canadian chartered bank. One of the firms is registered in all provinces except Quebec and New Brunswick and undertakes retail business. The other firm is registered in all provinces and carries out institutional business in all provinces (including Quebec and New Brunswick) and retail business in Quebec and New Brunswick. Dual employment across the two affiliated firms is commonplace and was the subject of prior OSC relief in 2002 which, in effect, exempted salespersons, directors and officers of the firms from certain dual registration and full time employment requirements that previously existed under Ontario securities law. This prior relief explicitly recognized that the two firms operate two lines of distinct business (retail and institutional) across two affiliated firms but, in effect, can be considered in all material respects a combined entity for registration purposes. This prior relief acknowledges that the dealing representatives of the two firms are carrying on activities which will not interfere with their duties and responsibilities as dealing representatives and there are no conflicts of interest arising from the individual's duties as dealing representatives and their outside activities so as to prevent the dual registration of such dealing representatives. The structure of this firm is rather unique and is well understood and documented in IIROC's corporate filings. While we acknowledge that in this case the firm did not make full disclosure in the form relating to the relationship between the two firms for the one particular applicant, there was no real regulatory risk posed by the non-disclosure as the dual registration is an issue that had been historically scrutinized by various regulators and well understood by IIROC Registration Staff.

Staff comments and follow up:

Since all applications, notices and staff's reviews are recorded on NRD and NRD is a shared database among all CSA regulators, it is important to ensure that relevant information recorded on NRD is complete and transparent so that all regulators can also have access to the information.

9.4 Exemption applications

9.4.1 Exemption applications filed before the application for registration

Background information

As set out above, OSC staff reviewed and discussed with IIROC Registration staff 20 applications for exemptions from proficiency requirements.

Staff findings

In an exemption application that OSC staff reviewed, a non-trading officer applied for exemption from proficiency requirements through NRD but he did not submit the application for registration at the same time. The application for exemption was approved subject to terms and conditions, and the approved exemption was valid for a period of 90 days from the date of IIROC's letter to the applicant. In this case, IIROC imposed terms and conditions on the proficiency exemption granted. However, these terms and conditions are recorded in NRD as terms and conditions of registration even though the individual is not registered (i.e. a non-trading officer is not registered) and an application for registration has never been submitted.

OSC staff noted another instance where a registrant submitted a proficiency exemption pre-filing through NRD without the relevant application to change his registration category. IIROC Registration staff indicated to us that they allow individuals to submit an application for exemption from proficiency requirements through NRD without requiring them to submit their change of registration category application at the same time.

Staff recommendations

Applications for exemption from proficiency requirements that are filed through NRD should be accompanied by the related application for registration. If there is no application for registration, then the pre-filing should not be processed through NRD.

Priority: High

IIROC's response:

We agree. It is not IIROC Registration's practice to process proficiency pre-filings on NRD. In the one example cited in OSC Staff's findings, IIROC staff made an error in including the term and condition of the proficiency exemption on NRD and we have followed up with Registration Staff more generally to review the procedures for handling pre-file proficiency exemptions.

Staff comments and follow up:

OSC staff's comments were based on the information obtained from IIROC at the time of the review. OSC staff have no further concerns.

9.4.2 Former Associate Portfolio Manager and Portfolio Manager approval categories

Background information

Effective September 28, 2009 (the date of the implementation of IIROC rule amendments needed to implement NI 31-103), IIROC's Associate Portfolio Manager (APM) and Portfolio Manager (PM) approval categories no longer exist. To reflect the IIROC approval category changes, all previously approved APMs and PMs were automatically converted to Registered Representatives with Portfolio Management shown as an information item (RR (PM)). Thus, the only distinction between former APMs and former PMs is a supervision requirement set out under IIROC Dealer Member Rule 1300.15(c).

Staff findings

In one exemption application that OSC staff reviewed, an individual proposed to change his category from APM to PM and submitted an application for exemption from the experience requirements on September 9, 2009. However, the submission was abandoned because further information was required, and the applicant did not resubmit the required information. On September 28, 2009, the individual's APM category was automatically converted to Registered Representative (Securities, Retail and Portfolio Management). In February 2010, the individual filed a notice submission to change his title from Associate Portfolio Manager to Managing Director, Portfolio Management.

IIROC Registration staff processed the notice to change the individual's title on NRD without

requiring any additional information. Although the submission was filed as a notice, the title change implies that the individual is a portfolio manager and a managing director of portfolio managers, and therefore a significant change in responsibilities. There is insufficient evidence in the file to indicate whether the individual has the full qualifications of a PM.

Staff recommendations

RR (PM)s that have less than two years experience providing discretionary management to managed accounts should be distinguished from the fully qualified RR (PM)s. IIROC Registration staff should ensure that the titles of individual registrants appropriately reflect the individuals' registration restrictions and their duties at the firm.

Priority: High

IIROC's response:

We agree that the use of certain titles and designations merits further consideration by all regulators and the issue of titling has been under discussion at IIROC over the last several months. To this end, IIROC recently conducted a targeted survey of its members regarding the use of titles, designations and other descriptors by registered representatives and other employees of Dealer Member firms who deal with investors. We will be studying the survey results to determine whether further IIROC guidance or regulatory oversight is required.

Staff comments and follow up:

OSC staff will follow-up with IIROC on how to distinguish fully qualified RR (PM)s from those that require supervision according to the IIROC rule requirements.

9.5 Withdrawn and returned submissions

Background information

One of the significant changes that resulted from the implementation of NI 31-103 was the streamlining of registration categories, both of CSA registration categories and IIROC approval categories. IIROC's rule amendments simplified and reduced the number of IIROC approval categories from 46 to nine. For example, the previous 13 supervisory approval categories are combined into one new Supervisor approval category, and the applicants must distinguish their supervisory duties in the current employment section of the Form 33-109F4.

The category selection on NRD and some schedules (e.g. Schedule C – *Individual Categories (Item 6)* of Form 33-109F4 and Schedule B – *Individual Categories (Item 3)* of Form 33-109F7) contain both the CSA registration categories (firm and individual) and the IIROC approval categories. Some IIROC approval categories are equivalent to the CSA individual categories (e.g. UDP, CCO, etc.) and applicants are expected to check the appropriate categories that they are applying for under both the CSA and IIROC levels. For example, an individual that is applying for a firm's UDP should check both the CSA's UDP and IIROC's UDP categories on Schedule C of Form 33-109F4.

IIROC published a Guide to IIROC Categories dated January 2010, IIROC Notice 09-0190 *Registration Reform – Transition to new IIROC Approval Categories* dated June 24, 2009, and

IIROC Notice 10-0062 *Registration Reform – Frequently Asked Questions* dated March 12, 2010 to provide guidance to member firms relating to the registration reform.

Staff findings

Based on review of the sampled submissions, OSC staff noted a pattern of applications being withdrawn or returned to the firm as a result of uncertainty regarding category selection. For example, six of the 20 Form 33-109F2s, three of the 25 Form 33-109F7s, one of the six applications for registration with an additional sponsoring firm, and one of the 23 Form 33-109F4s were withdrawn or returned to the firm due to the fact that incorrect categories were selected. Some of these applications were returned or withdrawn more than once for this reason. Specifically, some applicants selected a category at the CSA level but neglected to select the equivalent category at the IIROC level, or vice versa. Also, some applications were withdrawn because the applicants had to amend their current employment disclosure to specify their supervisor duties.

Staff recommendations

OSC staff recommend that IIROC consider ways to reduce the number of submissions being returned, such as minimizing confusion caused by the duplicate categories at the CSA and IIROC levels. IIROC should, at a minimum, improve the guidance in its Guide to IIROC Categories to clearly distinguish the categories that are CSA registration categories and those that are IIROC approval categories, and clearly set out that certain equivalent categories (e.g. UDP, CCO, etc.) must be selected under both the CSA and IIROC levels.

Priority: High

IIROC's response:

IIROC's Guide to Category already distinguishes CSA registration categories from IIROC approval categories. In addition, IIROC Registration hosted numerous Registration Reform workshops for Dealer Member firms in Vancouver, Calgary, Montreal, and Toronto in September and October 2009 which provided guidance to firms in this area, including take-away materials for firms that explained that equivalent categories like UDP and CCO must be selected under both the CSA and IIROC levels. IIROC also utilizes our bi-monthly meetings with the CLS Registration Subcommittee (an IIROC advisory committee consisting largely of registration staff at IIROC Dealer Members) to provide guidance to firms on recurring deficiencies and practice issues.

We believe firm confusion regarding equivalent registration and approval categories was a transitional issue, but we will look for opportunities to provide further guidance to firms if deficiencies continue.

Staff comments and follow up:

OSC staff have no further concerns.

9.6 Recommendation memoranda to the Ontario District Council (ODC)

Background information

Some of the recommendations of IIROC Registration staff are required to be submitted to the ODC for approval. Examples include IIROC Registration staff's recommendation to impose certain terms and conditions on an individual's registration or refusal of an individual's registration. The recommendation memo is prepared by IIROC Registration staff, and reviewed and approved by the VP and Director, Registration before it is submitted to the ODC for approval.

Staff findings

The VP and Director, Registration sign off on IIROC Registration's recommendations to the ODC, but do not include a date with their signatures. OSC staff found one instance where IIROC Registration staff received information about the status of an investigation after the date of the recommendation memorandum. However, the date of the memorandum was not changed. While IIROC confirmed that they did review this additional information before sending the recommendation memorandum to the ODC, without the date accompanying the VP and Director's signatures, it was unclear whether the VP and Director signed the recommendation based on all the relevant information, or whether the additional information was received after the VP and Director approved the recommendation and not reviewed.

Staff recommendations

OSC staff recommend that the VP and Director sign and date their approval of IIROC Registration staff's recommendation to properly document the chronology of their recommendation.

Priority: Low

IIROC's response:

IIROC Registration's existing practice is to evidence all approvals by signature in writing or by e-mail. In the case of an e-mail the date of approval would be identifiable from the e-mail itself. We will insert a date when an approval is evidenced in writing by signature.

Staff comments and follow up:

OSC staff have no further concerns.

III. MONTREAL OFFICE

1. Background

The AMF inspected the registration and membership components of IIROC Québec District in its Montréal office in March and April 2010. The inspection complemented the inspection of other program components (such as Business Conduct Compliance, Financial & Operations Compliance, Complaints, Investigations and Enforcement) conducted in fall 2009 and for which the inspection report was issued on April 1, 2011.

As part of this second phase of the IIROC inspection program, the AMF's inspection of the registration and membership components was conducted concurrently with the inspection of registration by the OSC (the membership component was examined during the first phase of IIROC's inspection) and the BCSC in their respective Toronto and Vancouver regional offices.

2. Registration

2.1 Introduction

Registration is a separate aspect of the inspection program. The purpose of the program is to validate how IIROC, as a recognized self-regulatory organization, carries out its functions and powers and the extent to which it complies with its governing statutes and the decisions rendered by the AMF when determining a person's skills or suitability for registration. In Order No. 2009-PDG-0100 handed down on August 19, 2009, the AMF delegated to IIROC all functions and powers relating to the registration of individuals.

The coming into force of *Regulation 31-103 respecting registration requirements and exemptions* ("Regulation 31-103") (entitled NI 31-103 in the other Canadian jurisdictions) and other related regulations necessitated corresponding amendments to IIROC's *Dealer Member Rules*. This entailed substantial activity for the Registration department, and the Montréal office staff was very involved in different initiatives, including the training of IIROC staff, Dealer Members and the various committees of the Québec District Council, as well as the publication of several Notices (including Frequently Asked Questions) designed to provide Dealer Members with guidance on issues involving the transition to the new registration regime.

2.2 Staffing and duties

During the period covered, Registration staff for IIROC Québec District consisted of eight people – the manager of the Registration department, six Registration officers (four senior officers and two regular officers) and a Registration clerk. During this period, two persons resigned and were temporarily replaced. At the time this report was written, these two positions were vacant. During the three previous years, Registration staff levels remained unchanged.

According to the organizational chart, the Registration manager reports directly to the Director, Member Regulation of IIROC Québec District and consults the Vice-President, Registration and Complaints in Toronto. Her main duties consist in ensuring the continuity and consistency of the review of applications made by firms (as new Dealer Members or in situations where ownership of a Dealer Member changes, for example) and overseeing the work of Registration officers. She

also provides the necessary support to develop or change registration procedures and methods and acts as a liaison with other IIROC departments, regional offices and securities regulators.

The senior Registration officers administer the laws and regulations regarding the approval of individuals for registration, paying particular attention to their competency, integrity and solvency. The regular Registration officers ensure that information is filed in the National Registration Database (the “NRD”) according to the appropriate procedure. The Registration clerk provides the necessary administrative support to the Registration department staff by keeping the registration files up-to-date.

Staff findings

AMF staff is of the opinion that, notwithstanding the resignation of two persons during the period covered, the Montréal office Registration department has sufficient staff, staff is qualified and the department is adequately supervised.

Staff recommendations

None.

2.3 Benchmarks

Registration benchmarks are as follows:

- 80% of all applications received, not including transfer and registration exemption requests, must be approved or processed with the sending of an initial non-compliance letter to the registrant within five business days;
- regarding possible new members, a preliminary non-compliance letter must, where applicable, be filed and sent through the NRD within two weeks of receipt of a person’s registration application after being reviewed for compliance by management (in accordance with IIROC Dealer Member Rule 7 *Dealer Member Directors and Executives*).

In and of itself, registration is a detailed procedure characterized by a high volume of operations. During the period covered, a total of 2,830 applications were processed by the Montréal office Registration department, including 151 new registration applications, 1,060 amendment applications (change or surrender of individual categories) for individuals, 83 amendment applications involving a company (branch), 590 notices of amendment (in particular regarding employment) and 946 termination applications. In addition, 64 reinstatements of registration (also called “transfers of registration”) of individuals were processed; it is no longer necessary to record such operations because they are done automatically in accordance with Regulation 31-103.

According to statistics provided by IIROC, 74% of operations processed by IIROC’s Montréal office relating to new registration applications, individual amendments and company amendments met the five business day approval period or, where applicable, processing times established to measure the Registration department’s performance.

AMF staff identified and analyzed a sample of 42 files.

Staff findings

During the first two months after the coming into force of Regulation 31-103, significant delays were observed in the processing of registration applications for individuals. This was considered reasonable in view of the significant changes related to registration reform. Furthermore, the NRD was inactive for two weeks at the time the registration reform was implemented. Applications filed during this period were processed manually. The situation has progressively improved and the performance benchmarks have been met since December 2009. Nonetheless, it is premature to make a judgement based on these benchmarks as the period covered is relatively short.

Staff recommendations

None.

2.4 Tools

The IIROC *Registration Operations Manual* was completely revised and updated in April 2010.

As with all IIROC departments, the tools used by the Registration department have been refined as computer processing is now used throughout the organization. The main computer systems used by the Registration department staff are the following:

- the NRD to file registrations of individuals working for a registered firm, a database in which Registration staff can take various regulatory actions (approve, refuse, withdraw, suspend or reinstate registration, impose or withdraw a condition, terminate an authorization and indicate a regulatory note);
- the ComSet complaints and settlement reporting system to validate information obtained in the case of customer complaints and disciplinary matters;
- the AS400 system to check the background of a registered individual or firm (e.g., regulatory action taken against the individual or firm).

Staff findings

AMF staff has noticed that the NRD is very strict in terms of managing exemption applications which, in many cases, are related to registration applications. When a registration application must be re-entered in the NRD for some reason, the related exemption application must be cancelled and also re-entered. This problem is caused by the system configuration. AMF staff believes that this entails a loss of time for all NRD users, and in this case for IIROC staff and Dealer Members.

In fact, any point pertaining to the improvement of the NRD is discussed within regular meetings of a working group composed of system users who are representatives of IIROC and the Canadian Securities Administrators. This working group determines the changes required according to pre-established priorities.

Staff recommendations

None.

2.5 Delegation of powers to the Approval Committee

District Councils have powers relating to registration applications of individuals (approve, refuse, maintain, impose terms and conditions, revoke, suspend, etc.) set forth in IIROC Dealer Member Rule 20.18 *Corporation Hearing Processes* (“Rule 20”). According to subsections (1) to (3) of Rule 20.18, these powers may be delegated to a sub-committee of the District Council or to IIROC staff or, pursuant to subsection (4), to a sub-committee of the District Council.

The District Council of a geographic region may set up permanent sub-committees for different purposes, including a registration sub-committee. In Québec, the Approval Committee, a sub-committee of the Québec District Council, performs functions related to registration applications by individuals.

Staff findings

AMF staff has obtained the resolutions of the Québec District Council regarding the Approval Committee for the years 2007-2008, 2008-2009 and 2009-2010. As they should, these resolutions deal with the appointment of members to the Approval Committee. However, they do not systematically or expressly provide for the delegation of powers to the Approval Committee or IIROC staff which, in reality, performs them. By comparison with the resolution of the Québec District Council, we obtained the resolution respecting the delegation of powers to the registration sub-committee of several other IIROC District Councils for 2009-2010, renewing their previous resolution.

Staff recommendations

The Québec District Council resolution respecting the Approval Committee should provide for not only the appointment of members of the Approval Committee but also the delegation of powers in accordance with the related IIROC’s *Dealer Member Rules*.

Priority – Medium

IIROC’s response:

The Québec District Council resolution respecting the Approval Committee was updated June 8, 2010 and includes the following two resolutions: (i) provision for the appointment of members of the Approval Committee; and (ii) provision for the delegation of powers related to IIROC’s *Dealer Member Rules*.

Staff comments and follow up:

AMF staff are satisfied with the response obtained and will follow up this recommendation with IIROC.

Staff findings

District Councils have other powers described in Rule 20.24 respecting proficiency exemptions. However, this section of the Rule reads differently from section 18 of Rule 20 as the powers

listed apply to the District Council or a sub-committee of the District Council which may delegate them to IIROC staff.

In Québec, no powers are delegated to IIROC staff under Rule 20.24 as the Approval Committee grants or denies proficiency exemptions. AMF staff has obtained a draft resolution of the Québec District Council recognizing the Approval Committee as the sub-committee of the District Council authorized to act pursuant to Rule 20.24.

Staff recommendations

The Québec District Council should obtain the resolution duly approved by its members identifying the sub-committee of the District Council authorized to act pursuant to IIROC Dealer Member Rule 20.24 *Corporation Hearing Processes*.

Priority – Low

IIROC's response:

A resolution was passed on June 8, 2010 by the Québec District Council identifying the Québec Approval Committee as authorized by IIROC Dealer Member Rule 20.24.

Staff comments and follow up:

AMF staff are satisfied with the response obtained and will follow up this recommendation with IIROC.

3. Membership

3.1 Introduction

Registration as a dealer with a regulatory authority is a prerequisite for membership in IIROC. The permit of an applicant planning to carry on business in Québec is issued by the AMF.

Before a membership application is submitted to IIROC's Board of Directors for approval, it is carefully examined by staff of IIROC's Financial & Operations Compliance, Business Conduct Compliance and Registration departments. This examination includes an analysis of the information and documents filed, discussions with the applicant's technical and management staff, and a site visit to examine the premises and systems. When IIROC staff believes that the application meets the membership requirements, the application is sent to the District Council of the province where the applicant's head office is located. The District Council then examines the application and, if it issues a favourable recommendation, the application is submitted to the Board of Directors for approval. The applicant is admitted as an IIROC member once administrative issues such as the payment of fees have been settled.

Other than the acceptance of new Dealer Members, the membership component of the inspection of IIROC Québec District includes the resignation, acquisition, change of control or ownership of a Dealer Member and amalgamation of Dealer Members. These changes are set forth in Article 3 *Conditions of Membership* of IIROC General By-Law No. 1 as well as in Rule 5 *Ownership of Dealer Member Securities*, Rule 6 *Dealer Member Holding Companies, Related*

Companies and Diversification and Rule 8 Dealer Member Resignations, Amalgamations, etc. of IIROC's Dealer Member Rules.

The period covered for the inspection of the membership component is September 1, 2006 to February 28, 2010.

3.2 Procedures

The manual used by IIROC for the membership component is entitled *General Counsel's Office Membership Policies & Procedures*, the most recent version of which is dated September 29, 2009. It describes membership procedures to be followed by staff of the various IIROC departments, IIROC management, the relevant District Councils and the Board of Directors. It gives an approximate schedule for each step of the approval procedure, which depends on several contingencies, including missing information in the supporting documents filed and Board meeting dates. On average, the time spent examining an application filed by a firm is approximately four months.

The computer tools used to store membership information are the SharePoint portal, which is similar to a national on-line library, and UBSS, a file tracking management software system.

Staff at IIROC's Montréal office did not have to deal with new dealer memberships during the period covered. However, it examined several cases of shareholding changes and amalgamations for which it had to make a recommendation to the Québec District Council, which had to deal with about 24 files related to diverse transactions involving one or several Dealer Members during the period covered.

AMF staff examined a sampling of two files: one relating to the amalgamation of two IIROC members and another one involving the acquisition of a significant interest in a Dealer Member. AMF staff's findings further to its examination of these two files are set forth below.

Staff findings

Although the amalgamation file has a great deal of analyses explaining a complex transaction, supported by several legal documents, it is not complete. AMF staff did not find any information exchanged between the relevant IIROC departments and there is little information about the new Dealer Member resulting from the amalgamation, in particular with regard to its new compliance structure, supervision, insurance coverage and clearing of transactions.

AMF staff did not find any problems with the matter involving the acquisition of a significant interest in a Dealer Member.

Staff recommendations

IIROC's Montréal office staff should ensure that it obtains all documents to support its analysis of a transaction involving a Dealer Member.

Priority – Medium

IIROC's response:

We acknowledge the finding on this particular file. In future, staff leading the review of such files will ensure that all discussions with relevant IIROC departments are documented in the file as well as any required District Council resolutions.

Staff comments and follow up:

AMF staff are satisfied with the response obtained and will follow up this recommendation with IIROC.

Staff findings

The procedures contained in the *General Counsel's Office Membership Policies & Procedures* manual concerning amalgamations, reorganizations, consolidations and changes of control among Dealer Members are quite succinct. In addition, the manual does not cover communications between IIROC departments or the types of matters which should be checked by Financial & Operations Compliance and Business Conduct Compliance departments, for example.

Staff recommendations

IIROC should set out more detailed procedures in the *General Counsel's Office Membership Policies & Procedures* manual.

Priority – Medium

IIROC's response:

The *General Counsel's Office Membership Policies and Procedures* manual relates solely to GCO's role in coordinating the substantive review performed by the other departments. The manual does contain complete information about the manner in which materials are to be distributed to those departments and the levels of involvement of those departments (notice, approval, etc.) and other IIROC bodies (such as the District Councils or IIROC Board). It is not GCO's responsibility to perform a substantive review of the transaction, and the manual accurately and comprehensively reflects GCO's responsibilities. The policies and procedures for the substantive review of those transactions are set out in the respective departmental manuals, and there would be little benefit to reproducing those in the GCO manual.

Staff comments and follow up:

According to the information available to us at the time of the inspection, IIROC used the September 29, 2009 revised version of the *General Counsel's Office Membership Policies & Procedures* manual for its membership inspection.

We understand that detailed reviews of membership applications are primarily conducted by IIROC's Financial & Operations Compliance, Business Conduct Compliance and Registration departments, in accordance with a process outlined in their respective policies and procedures manuals. We also understand that the *General Counsel's Office Membership Policies & Procedures* manual sets out the procedures to be followed by the GCO to co-ordinate

membership issues from all departments concerned.

We believe, however, that as with the registration component, the steps in the membership process should be consolidated into one document which IIROC staff could consult from the time an application is made until its approval by IIROC's Board of Directors, including the recommendation of the District Council. This would ensure that all information from different sources is contained in a single document and that applications are processed consistently.

AMF staff will follow up this recommendation with IIROC.

IV. VANCOUVER OFFICE

1. Vancouver office is meeting expectations

BCSC staff found that the IIROC Pacific Region Registration Department is processing registration applications fairly and effectively. Operations improved during the Review Period compared to the last review.

IIROC is authorized by the BCSC to process all investment dealer firm and individual applications for registration in British Columbia.

2. Department organization, reporting structure, training and supervision

Background information

The Vancouver Registration Department consists of the Manager, Registration and seven Registration Officers (registration staff). The Manager reports to the Director, Pacific Region, and directly to the VP, Registration & Compliance at IIROC's head office.

New registration staff receive:

- a required reading list
- access to the IIROC Operations Manual (the manual)
- lengthy on-the-job training, tailored to the staff member's needs

For the first three to six months, the Manager reviews every application that new registration staff complete. Supervision is gradually reduced as the staff member progresses. Periodically, the Manager conducts random audits of all staff's work.

To assist in transitioning to the new national registration rule, IIROC staff received training from the BCSC in September 2009. In addition, when the national rule was introduced, IIROC and BCSC staff met weekly to go over registration issues. They continue to meet to consider these issues on an as needed basis.

All registration staff receive the alerts that come from various securities commissions and IIROC. They are encouraged to read all IIROC bulletins and news clippings to keep up-to-date with any registration changes.

Staff findings

The departmental organization, reporting structure, training, and supervision appear to be adequate.

Staff recommendations

None.

3. Benchmarks

Background information

IIROC requires registration staff to approve or send a first deficiency letter to members within

five business days for 80% of all applications.

Staff findings

During the Review Period, registration staff met or exceeded the benchmark.

Staff recommendations

None.

4. Communication with Commissions and other IIROC regional offices

Background information

When registration filings are made in multiple jurisdictions, registration staff must communicate effectively and coordinate with other IIROC regional offices and provincial securities commissions.

Registration staff must take particular care in communicating with Ontario IIROC registration staff, as Ontario does not participate in the Passport system.

Staff findings

Registration staff appear to communicate and coordinate effectively with other jurisdictions and regional offices.

Staff recommendations

None.

5. Staffing and turnover

Background information

BCSC staff observed that registration staff turnover has declined since the previous oversight review.

Staff findings

Staffing levels were consistent and appeared adequate during the review period.

Staff recommendations

None.

6. Policies and procedures

Background information

The IIROC Registration Operations Manual (manual) provides registration staff with guidance for processing different registration filings. It includes specific examples and reference information for handling novel proficiency issues. It also includes continuing education requirements, checklists, an explanation of the role of the District Councils, and all requirements specific to IIROC operations in various jurisdictions. The manual was adapted from the Canadian Securities Administrators (CSA) Registration Operations manual.

Firms file registration applications through the National Registration Database (NRD). Registration staff review NRD filings and complete a checklist to aid their analysis. If the filing

raises no issues, registration staff process it without management review.

The manual includes a matrix to guide staff in making registration decisions. If the matrix does not address the specific issue registration staff is reviewing, or if the application is contentious, the Manager reviews the application.

All registration staff review individual applications. However, only the senior registration staff and the Manager review firm applications.

Registration staff can impose conditions on registration to manage risks presented by an applicant.

BCSC staff interviewed all IIROC's Vancouver office registration staff.

Staff findings

IIROC's registration policies and procedures appear adequate.

Staff recommendations

None.

6.1 Initial applications for registration - firms

Background information

Staff reviewed:

- a BC-based firm's membership application (filed prior to the Review Period, as no applications were made during the Review Period)
- reactivation and initial submissions from firms
- applications to add another jurisdiction to the firm's registration

Staff findings

Registration staff appear to be adequately reviewing firm applications.

Staff recommendations

None.

6.2 Reinstatement applications - individuals

Background information

BCSC staff reviewed registration staff's work in processing reinstatement filings. Individuals who leave one firm and join another are transferred automatically within 90 days. When more than 90 days have passed, registration staff must review the individual's reinstatement filing.

Staff findings

Registration staff appear to be reviewing reinstatement filings adequately.

Staff recommendations

None.

6.3 Exemption applications

Background information

The Pacific District Council Registration Sub-Committee (five to seven IROC member firm representatives) reviews all discretionary exemption requests, supported by registration staff's analysis and recommendations. A minimum of three members of the Committee must participate in each review.

BCSC staff reviewed all the exemption requests considered by the Sub-Committee in the Review Period.

Staff findings

The Sub-Committee appears to be reviewing exemption requests adequately.

Staff recommendations

None.

6.4 Other registration related filings

Background information

BCSC staff reviewed registration staff's work for these registration related filings:

- Change or Surrender of Individual Category
- Additional sponsoring firm
- Notices of Termination
- Terminations for cause

Staff findings and recommendations

Findings – Change or surrender category

Registration staff appear to be processing these filings adequately.

Staff recommendations

None.

Findings – Additional sponsoring firm

Registration staff appear to be processing these filings adequately.

Staff recommendations

None.

Findings – Notices of Termination

Registration staff appear to be adequately reviewing notices of termination.

Staff recommendations

None.