

IIROC NOTICE

Administrative Notice
Request for Comments
IIROC By-law No. 1

Please distribute internally to:
Legal and Compliance
Senior Management

Comments due by May 6, 2019

Contact:
Doug Harris
Vice President, General Counsel and Corporate Secretary
(416) 646-7275
dharris@iiroc.ca

19-0060
April 4, 2019

Proposed Amendment to IIROC By-law No. 1 Regarding Director Term Limits

On March 27, 2019, the Board of Directors (the Board) of the Investment Industry Regulatory Organization of Canada (IIROC) approved for publication for comment proposed amendments to subsection 5.3(2) of IIROC By-law No. 1 (the By-law) to change the way in which Director term limits are calculated.

The amendment is subject to final Board, regulatory and Member approvals. IIROC intends to seek Member approval of the amendment at its Annual General Meeting in September 2019.

Description of the Proposed Amendment

Subsection 5.3(2) of the By-law provides that, with the exception of the President, a Director may be elected to serve four consecutive terms in office but shall not be eligible to be elected to serve a fifth consecutive term.

Currently, if a Director is appointed (under Section 5.6 of the By-law) to replace a Director who has left during his or her two-year term, the new Director assumes the same term as the departing Director. For example, if a departing Director leaves after 18 months, the new Director's first term will be the remaining six months (the stub term).



Under subsection 5.3(2), the stub term counts towards the new Director’s four-term limit. The new Director in our example therefore has an effective term limit of six years and six months.

We propose a By-law amendment that would exclude the stub term from the term limit calculation.

If the amendment were in force, the term limits for the current Directors would be as follows:

| Director | Terms Appointed/ Elected (Assuming Amendment) | Current Term Limit End Date | New Term Limit End Date |
|-------------------------------|--|-----------------------------|-------------------------|
| Brian Heidecker (Independent) | Sept 2011 – 2 yr term Sept 2013 – 2 yr term Sept 2015 – 2 yr term Sept 2017 – 2yr term | 2019 | Same |
| Paul Allison (Chair) (Dealer) | Oct 2013 – 11 mo term¹ Sept 2014 – 2 yr term Sept 2016 – 2 yr term Sept 2018 – 2 yr term Sept 2020 – 2 yr term | 2020 | 2022 |
| Jean-Paul Bachelier (Dealer) | Sept 2013 – 1 yr term² Sept 2014 – 2 yr term Sept 2016 – 2 yr term Sept 2018 – 2 yr term Sept 2020 – 2 yr term | 2020 | 2022 |
| James Donegan (Independent) | Sept 2012 – 2 yr term Sept 2014 – 2 yr term Sept 2016 – 2 yr term Sept 2018 – 2 yr term | 2020 | Same |
| Ed Iacobucci (Independent) | Sept 2012 – 2 yr term Sept 2014 – 2 yr term Sept 2016 – 2 yr term Sept 2018 – 2 yr term | 2020 | Same |
| Catherine Smith (Independent) | Sept 2012 – 2 yr term Sept 2014 – 2 yr term Sept 2016 – 2 yr term Sept 2018 – 2 yr term | 2020 | Same |
| Gerry O’Mahoney (Independent) | Sept 2013 – 1 yr term³ Sept 2014 – 2 yr term Sept 2016 – 2 yr term Sept 2018 – 2 yr term Sept 2020 – 2 yr term | 2020 | 2022 |

¹ Replacing Marianne Harris as a Dealer Director.

² Replacing Robert Blanchard.

³ Replacing Michael Boychuk.



| Director | Terms Appointed/ Elected (Assuming Amendment) | Current Term Limit End Date | New Term Limit End Date |
|-------------------------------|---|-----------------------------|-------------------------|
| Holly Benson (Dealer) | Jan 2015 – 7 mo term⁴ Sept 2015 – 2 yr term Sept 2017 – 2 yr term Sept 2019 – 2 yr term Sept 2021 – 2 yr term | 2021 | 2023 |
| Luc Paiement (Dealer) | Sept 2016 – 2 yr term Sept 2018 – 2 yr term Sept 2020 – 2 yr term Sept 2022 – 2 yr term | 2024 | Same |
| Michèle Colpron (Independent) | Sept 2017 – 2 yr term Sept 2019 – 2 yr term Sept 2021 – 2 yr term Sept 2023 – 2 yr term | 2025 | Same |
| Luc Fortin (Marketplace) | Jan 2018 – 19 mo. term⁵ Sept 2019 – 2 yr term Sept 2021 – 2 yr term Sept 2023 – 2 yr term Sept 2025 – 2 yr term | 2025 | 2027 |
| Lucie Tedesco (Independent) | Sept 2018 – 2 yr term | 2026 | Same |
| Jos Schmitt (Marketplace) | Sept 2018 – 2 yr term | 2026 | Same |

Rationale for the Proposed Amendment

Because of the application of current subsection 5.3(2), four Independent Directors and two Dealer Directors (including the current Board Chair) are reaching their term limits in 2020.

The provision has therefore had the unintended effect of reducing the extent to which the terms of the members of IIROC's are "staggered". Staggering of Director terms promotes both Board renewal and succession planning.

Specifically, the proposed amendments will:

- ensure that all Directors have a term limit of at least eight years
- extend the terms of certain Directors who would otherwise reach their term limit in September 2020 to promote continuity and orderly Board succession.

⁴ Replacing Sheldon Dyck.

⁵ Replacing Nick Thadaney.



The Mutual Fund Dealers Association of Canada (MFDA) takes the same approach to term limits in its By-law. Subsection 3.3.2. of the MFDA By-law provides that

A Public Director shall be eligible to serve for only 2 successive terms of 3 years which shall include any shorter term as may have been fixed by the Board of Directors in accordance with this By-law, *but shall exclude any portion of a term of office in respect of a vacancy filled pursuant to Section 3.5.* (emphasis added)

Section 3.3.3 of the MFDA By-law is to the same effect for MFDA Industry Directors. Section 3.5 of the MFDA By-law is similar to Section 5.6 of the IIROC By-law.⁶

Approval Process

The amendment is subject to final Board, regulatory and Member approvals.

IIROC staff will present a summary of the comments received to the IIROC Board before seeking final IIROC Board approval of the amendment.

Under subsection 2(a)(i) of Appendix A to IIROC's Recognition Orders, prior CSA approval is also required for any change to the By-law.

If IIROC staff receive final Board approval and CSA approval, we intend to seek Member approval of the amendment at IIROC's Annual Meeting in September 2019.

We anticipate that the proposed amendments will be made effective on the date of Member approval.

Impact of the Proposed Amendments

IIROC has determined that the proposed amendment will only result in changes to the routine internal processes, practices and administration of IIROC and will have no material impact on investors, issuers, members, registrants or the capital markets in any province or territory of Canada.

⁶ The MFDA recently proposed amendments to its By-law that change this wording, but otherwise are to the same effect: Bulletin #0778-P, *Proposed Amendments to MFDA By-law No. 1* (March 14, 2019).



Request for Public Comment

Comments are requested on the proposed amendment. Comments should be in writing and delivered by **May 6, 2019** to:

Doug Harris
Vice President, General Counsel and Corporate Secretary
Investment Industry Regulatory Organization of Canada
Suite 2000, 121 King Street West
Toronto, Ontario M5H 3T9
email: dharris@iiroc.ca

A copy should also be provided to the Recognizing Regulators by forwarding a copy to:

Market Regulation
Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto, Ontario M5H 3S8
e-mail: marketregulation@osc.gov.on.ca

Commenters should be aware that a copy of their comment letter will be made publicly available on the IIROC website at www.iiroc.ca.

Attachments

A black-line copy of subsection 5.3(2) of IIROC By-law No. 1, reflecting the proposed amendment, is attached.



Proposed Amendment to IIROC By-law No. 1

5.3(2) With the exception of the President, a Director may be elected to serve four consecutive terms in office but shall not be eligible to be elected to serve a fifth consecutive term, which shall include any shorter term as may have been fixed by the Board of Directors in accordance with this By-law, but shall exclude any portion of a term in office in respect of a vacancy filled pursuant to Section 5.6. For purposes of determining the number of consecutive terms in office of a Director elected by the first Members of the Corporation in accordance with the former By-laws of the Corporation who was re-elected at the first annual meeting of Members, his or her term in office prior to the first annual meeting of Members shall not be included. Those Directors elected at the first annual meeting of Members to serve for an initial one year term shall be limited to three additional consecutive terms in office.