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New Brunswick Securities Commission Staff Notice 21-702

Business Continuity Planning – Industry Testing Exercise

Business continuity is an ongoing priority for industry participants and regulatory authorities. Various events that have occurred over the past few years, such as the different flu outbreaks, natural disasters, black-outs or marketplaces' system problems that impacted a part or the industry as a whole, have served to heighten that priority by highlighting the risk of operational disruptions to the financial system.

Staff of the Commission (Staff or we) encourage the industry's efforts to identify the challenges and address the potential impact of any incidents that could disrupt normal business operations. This practice is consistent with securities legislation. Specifically, securities regulations require that business continuity plans be tested regularly, to reflect current or potential developments. Subsection 12.1(b) of National Instrument 21-101 *Marketplace Operation* requires marketplaces to test their business continuity and disaster recovery plans on a reasonably frequent basis and, in any event, at least annually. In addition, subsection 11.1(b) of National Instrument 31-103 *Registration Requirements and Exemptions* requires a registered firm to establish, maintain and apply policies and procedures that establish a system of controls and supervision sufficient to manage the risks associated with its business in accordance with prudent business practices. Rule 17.16 of the Dealer Member Rules of the Investment Industry Regulatory Organization of Canada (IIROC), approved by the recognizing regulators of IIROC, requires Dealer Members to establish and maintain a business continuity plan and conduct an annual review and a test of their business continuity plan to determine whether any modifications are necessary. In addition, clearing agencies are expected to have procedures to ensure business continuity including regularly testing their business continuity plans.

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We are of the view that dealers, marketplaces, self-regulatory organizations and clearing agencies should participate regularly in industry-wide testing. We are considering whether it is necessary to make such testing mandatory through rule proposals or additional requirements in the recognition orders of various entities.

As stated in IIROC Notice 10-0332 issued on 16 December 2010, IIROC has set the date for a market wide test on 10 September 2011. IIROC expects all Dealer Members and major service providers to participate in this test and it will share the results of the test with all participants.

In light of the above and the existing requirements, New Brunswick Securities Commission Staff encourage all dealers, marketplaces and clearing agencies to participate in the September 2011 market-wide exercise organized by IIROC. Participation in this exercise may facilitate the discovery of any potential communication issues, points of failure between industry participants within and across different jurisdictions or other issues with services provided by third-party service providers.

Questions may be referred to:

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