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May 23, 2018

Charles Corlett
Director, Enforcement Litigation
Investment Industry Regulatory Organization of Canada
Suite 2000
121 King Street West
Toronto, Ontario
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Dear Mr. Corlett:

Subject: IIROC Notice 18-0045: Enforcement Alternative Forms of Disciplinary Action

Assante Capital Management Ltd. ("Assante") appreciates the opportunity to comment on IIROC Notice 18-0045 *Enforcement Alternative Forms of Disciplinary Action (the "Proposal")*. We support the Investment Industry Regulatory Organization of Canada's ("IIROC's") strategic initiative to expand its enforcement options to address wrongdoing in a fair and proportional manner to the individual circumstances and at the same time, inspire confidence in the market.

Assante is a subsidiary of Assante Wealth Management Inc., one of the country's largest independent wealth management firms. Assante and our sister firm Assante Financial Management Ltd., a MFDA member firm, have over 835 professional advisors overseeing \$42.7 billion of assets under administration on behalf of Canadian families and institutions.

Set out below are our comments on the two enforcement alternatives detailed in the Proposal.

Minor Contravention Program (MCP)

Currently, upon completing an investigation into an allegation of wrongdoing by a Dealer Member or Approved Person, IIROC has two enforcement options available; issue a cautionary letter when Staff believe there may have been a minor contravention of IIROC requirements or initiate formal disciplinary proceedings. The Proposal indicates that the MCP would be used when Staff believe there is evidence to support an allegation of a contravention of IIROC requirements and when a cautionary letter is deemed to be insufficient to address the matter but a full, time consuming disciplinary

proceeding is not warranted. In addition, the Proposal indicates that the MCP could be considered when there is limited or no harm to the public or the capital markets. Importantly, if the Dealer Member or Approved Person agrees to the sanction imposed under the MCP, the Dealer Member or Approved Person is admitting they contravened IIROC rules.

While we acknowledge that the MCP does provide IIROC with an alternative enforcement option that could result in a more proportional sanction to the alleged contravention, Assante does not believe that Dealer Members or Approved Persons will accept MCP offers as proposed. While the MCP rules would not permit IIROC to initiate disciplinary proceedings against the Dealer Member or Approved Person based on the admission of guilt and it would not be part of the IIROC disciplinary record, we are concerned that such an admission would need to be disclosed to other regulators as well as to certain professional and academic associations, each of which could jeopardize the reputation and good standing of the Dealer Member or Approved Person.

We are also concerned that once the MCP is implemented, IIROC will look to resolve an allegation of wrongdoing by utilizing the MCP in situations that would have previously been resolved by issuing a cautionary letter. This escalation of enforcement actions by IIROC would result in Dealer Members or Approved Persons rejecting the MCP sanction in favour of a hearing panel, especially if an admission of guilt is required, as there is little downside risk for the Dealer Member or Approved Person. This outcome is expensive for all involved and runs counter to the objective of resolving allegations of wrongdoing quickly and efficiently.

For the MCP to be a viable enforcement solution, we suggest that the MCP be changed such that the Dealer Members or Approved Persons does not admit they contravened IIROC rules when accepting the sanction. Such a change would align the MCP with the no-contest settlement agreements currently utilized by certain regulators. Seeing as the MCP is only to be considered when there is little or no harm to the public or capital markets, a no-contest settlement structure would have little or no impact on investors but would eliminate the unintended consequences of the current Proposal; specifically, the potential loss of professional standing with associations and with regulators.

In accordance with IIROC rules, Dealer Members have well defined internal complaint handling processes that can result in the Dealer Member administering sanctions against the Approved Person. These internally administered sanctions are often developed using IIROC sanction guidelines and are often taken into consideration by IIROC when conducting an investigation for an internal disciplinary hearing. We recommend that the same consideration be afforded the Approved Person when IIROC is reviewing a potential wrongdoing under the MCP. If the Dealer Member sanction of the Approved Person is proportional to the wrongdoing there may not be a need for IIROC to also take action under the MCP and/or the MCP sanction should be adjusted to account for the internal discipline levied against the Approved Person.

Early Resolution Offers (ERO)

Section 2.2. of the Proposal indicates that there are three purposes for implementing ERO: to promote the timely resolution of cases; to increase use of IIROC's credit for cooperation policy; and to encourage Dealer Members to implement measures to address harm in a timely manner. As investigations and disciplinary hearings are expensive and time-consuming processes, we believe EROs will be a process that Dealer Members and Approved Persons will support. Provided that the

negotiation and approval of the ERO is not a protracted process, we believe IIROC may achieve the three objectives of the program.

Thank you for providing the opportunity to comment on the proposed mandatory reporting of cybersecurity incidents. Please contact me if there are any questions regarding these comments.

Yours sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Sean Etherington
President
Assante Capital Management Ltd.