Attachment B:
Investor compensation arrangements in the European Union, Canada and the United States of America

Investor Compensation Schemes (EU)	Canadian Investor Protection Fund	Securities Investor Protection Corporation (USA)
Scope		
Member States of the EU are required to implement a compensation scheme in accordance with an EU Directive.[1] The scheme must provide for compensation where an authorised investment firm[2] fails to repay money or return financial instruments held on a client's behalf. Compensation is not available for other losses, such as from a decline in the value of the investment or negligent investment advice.	CIPF is designed to protect investors from the bankruptcy of an investment firm.[3] CIPF covers accounts used solely for the purpose of transacting in securities, cash balances, commodities, futures contracts, and segregated insurance funds received, acquired or held by the member in an account for the customer. The scheme is not restricted to retail investors.	SIPC protects funds or securities lodged with a firm which subsequently becomes insolvent. The scheme reimburses investors for stocks, notes, bonds, warrants and cash lodged for the purpose of security investment with a member firm that fails financially. All brokers and dealers registered with the Securities Exchange Commission must be members of the scheme.

1 Establishment dates for founding Member State Schemes: Austria –1999; Belgium –1999; Denmark –1998; Finland –1998; France –1999; Germany –1998; Greece –1998; Ireland –1998; Italy –1998; Luxembourg – 2000; Netherlands – 1998; Portugal – 2000; Spain – 2001; Sweden –1999; UK – 1988; Cyprus – 2004; Czech Republic – 2002; Estonia – 2002; Hungary – 1997; Latvia – 2002; Lithuania – 2002; Malta – 2003; Poland –2001; Slovakia – 2002; Slovenia – 2002.

2 An investment firm provides investment services for third parties, including reception and transmission, dealing, managing portfolios and underwriting of transferable securities, units in collective investment undertakings, money-market instruments, futures contracts, forward interest-rate agreements, interest-rate, currency and equity swaps, options to acquire or dispose of any of the above (including on currency and on interest rates).

3 CIPF's role in the Canadian regulatory system is shaped by, among other things, a Memorandum of Understanding with the Canadian Securities Administrators (CSA). CSA is comprised of Canada's 13 provincial and territorial securities regulators.

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Grounds for compensation		
Compensation is available where: • an investment firm is unable to meet obligations arising out of investors' claims; or • a judicial authority suspends investors' ability to make claims against an investment firm. Cover has to be provided for claims arising out of an investment firm's inability to: • repay money owed/belonging to investors and held on their behalf in connection with investment business; or • return to investors any instruments belonging to them and held, administered or managed on their behalf in connection with investment business.	Claims can only be made when a CIFP member is insolvent. A claimant must be a customer of and have an account with a CIFP member, within which assets have not been returned to the customer by the (insolvent) CIFP member. Claims may be made by customers that are individuals, corporations, partnerships, unincorporated syndicates, unincorporated organisations, trusts, trustees, executors, administrators or other legal representatives. Non-citizens who have accounts with CIFP members are also covered.	Claims can only be made against broker-dealers who are in liquidation under the *Securities Investor Protection Act.* Claims can be made when a brokerage firm fails and cash and securities are missing from customer accounts. SIPC asks a federal court to appoint a trustee to liquidate the firm and protect its customers. With smaller brokerage firm failures, SIPC sometimes deals directly with customers.

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Compensation not available		
Member States can exclude certain categories of investments or investors they consider do not need special protection. EU schemes generally do not extend to professional and institutional investors, including investment firms, credit institutions, pension, superannuation and retirement funds, directors, managers and members of investment firms, and large companies. Some members have chosen to extend compensation availability to large companies and professional and institutional investors[4].	Compensation is not available for the following customer losses: • changing market values of securities, unsuitable investments, or the default of an issuer of securities; • losses in accounts of customers related to business financing, such as securities lending and purchase/repurchase transactions; • losses where the customer has not filed a claim within 180 days of the date of insolvency; and • securities or segregated funds that are not held by a member, or recorded in a customer's account as being held by a member, for example, registered directly in the name of the customer with a mutual fund company.	Compensation does not extend to fraudulent sales practices, unsuitable investments, or failure to execute sell orders. Assets not covered include commodities, futures contracts, fixed annuity contracts, currency investments, as well as investment contracts (such as limited partnerships) that are not registered with the Securities and Exchange Commission.
Conditions		
Member State’s may specify conditions on compensation provided they do not conflict with any EU Directive.	The Board of Directors may reduce the amount of a claim for financial loss by the amount of compensation the customer has received from any other source.	SIPC and court-appointed trustees assess compensation based on customer accounts as recorded in the books of the broker firm.

4 Countries that have extended compensation availability include: Denmark which allows claims from insurance companies, retirement funds and large companies; Finland which allows claims from any entity not formally recognised as a professional investor; France, Germany, Greece, Italy, Portugal and Spain which allow claims from large companies; Luxembourg which allows claims from auditors of the defaulting firm; Sweden which allows claims from all investors except firms that are themselves members of the scheme.

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Access to compensation		
The directive leaves this to member states.	CIPF has developed a claims procedure which sets out timeframes and steps to be followed. CIFP or the trustee of the insolvent member will circulate a notice of insolvency to the member's customers. Customers must initiate the claim by lodging a proof of claim. CIPF reviews all claims to ensure they are eligible for compensation. Customers who are not satisfied with CIPF's decision may ask for the decision to be reviewed by a panel of CIPF Directors.	Customers of a failed brokerage firm get back all securities that are registered in their name or are in the process of being registered. The firm's remaining customer assets are divided on a pro rata basis with funds shared in proportion to the size of claims. If sufficient funds are not available in the firm's customer accounts to satisfy claims within these limits, the reserve funds of SIPC are used to supplement the distribution up to the defined claim ceilings. Additional funds may be available to go towards the remainder of customer claims after meeting the cost of liquidating the brokerage firm. Recovered funds are used to replenish the reserve where that reserve has been drawn on earlier in a liquidation proceeding.
Eligibility		
There are few rules on how compensation schemes should process claims from investors. In many cases, the establishment of eligible claims and calculation of compensation is a matter of judgment and the responsibility of the scheme operator, subject to the general criteria laid down in law and regulation.	The Board of Directors of CIPF has discretion to determine the customer's eligibility for protection and the financial loss suffered.	Compensation is only available to arms-length customers of brokers. It does not extend to brokers themselves or entities associated with a brokerage firm.

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Assessment of claims		
The EU Directive requires compensation schemes to take appropriate measures to inform investors once a participating firm has defaulted and a compensation event is established. Assessment for compensation from a scheme is largely left to national law.	CIPF uses 'fair and reasonable policies' for assessing claims, to pay eligible claims and to review claims that are not accepted for coverage. The Board of Directors or a review panel will review the outcome if requested by the customer or CIPF staff.	Aggrieved customers submit a claim which describes the form of cash and securities that are owed to them. The court-appointed trustee will compare what the customer claims against the books and records of the brokerage firm. Frequently, a customer's entire account is transferred to another brokerage firm.
Compensation limits		
The EU Directive sets a minimum level of compensation per investor of at least 90 per cent of the first €20 000, though Member States are allowed to provide for a higher level of compensation.	Each customer's coverage is limited to a $1 million shortfall for any combination of cash and securities held at CIPF members. When a member becomes insolvent, the CIPF will move the customer' account, within the limits of coverage, to another investment dealer where the customer can access it.	The financial worth of a customer's account is calculated as of the 'filing date.' Wherever possible, the actual stocks and other securities owned by a customer are returned to them. Once the defaulting firm's assets are exhausted, funds from SIPC's reserve are available to satisfy the remaining claims of each customer up to a maximum of $500,000. This figure includes a maximum of $250,000 on claims for cash.

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Funding of scheme		
The EU Directive calls for compensation schemes to be funded from contributions of participating firms proportionate to their liabilities. There are differences between States with regard to when contributions are collected, the management of the schemes, the degree to which funds are pooled across participating firms, the way contributions are calculated, and the existence of different funding arrangements.	The CIPF is funded by CIPF members. The size of the fund's resources is close to $300 million. CIPF determines the size of the fund based on the customer assets held by each of its approximately 200 members and also determines the amount that each Member has to contribute. For liquidity purposes the Fund has two lines of credit provided by two Canadian chartered banks totalling $100 million. The Fund has also arranged insurance of $70 million for any one loss and in the annual aggregate in respect of losses to be paid by CIPF between $100 million and $200 million, in the event of Member insolvency.	The scheme is funded from member assessments and income from investments in government bonds. The levy imposed on participants' ranges from a minimum of $150 per annum to a maximum of 1 per cent of their annual revenue.
Scheme governance		
Operation of schemes is left to national law, with some schemes under the responsibility of professional organisations and others regulated on a statutory basis. Although independent, the schemes generally maintain close relationships with the financial services regulator.	The CIPF is a non profit corporation created by the Canadian investment industry in 1969. The CIPF works with several sponsors: the Investment Industry Regulatory Organization of Canada, Bourse de Montréal Inc., and the TSX Group of Companies.	The SIPC was established by the *Securities Investor Protection Act 1970* and is a non profit, membership corporation, funded by its member securities broker-dealers.