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**TO:** MEMBERS OF THE FINANCE SUBCOMMITTEE

**FROM:** ELONA BAUM, GENERAL COUNSEL

**SUBJECT:** CONSIDERATION OF AMENDMENTS TO CIRM'S LOAN ADMINISTRATIVE POLICY

**DATE:** APRIL 18, 2011

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Attached are a number of proposed amendments to the Loan Administrative Policy. Many of these amendments are intended to implement decisions of the Governing Board during its meetings on December 8, 2010 and January 27, 2011. In addition, some of the proposed amendments are intended to further clarify our regulations. The proposed regulations provide:

- (1) Interest Rate: the amendment would clarify that the LIBOR rate in the Loan Administration Policy applies to the one year LIBOR rate and resets upon each distribution, which shall be made annually;
- (2) Warrant Requirements: Consistent with the Governing Board's prior decision, warrant requirements would be changed to draw a further distinction between Company Backed Loans and Product Backed Loans. For Company Backed Loans, the maximum requirement will be the lesser of 50% of the loan amount or 20% of the Loan Recipient's shares, fully diluted. Currently, the Loan Administration Policy provides a maximum of the lesser of 75% of the loan amount and 20% of the Loan Recipient's shares, fully diluted. Other changes to the warrant requirements include a new schedule of warrant requirements for Product Backed Loans that depends on the amount of co-funding provided by the Loan Recipient;
- (3) Forgiveness: The amendments would provide for an automatic forgiveness mechanism with an automatic re-instatement for Product Backed Loans. Please note that reinstatement would be on



terms approved by the Finance Subcommittee (FSC) – the FSC may wish to consider stating that the interest rate would be the same as the original loan LIBOR rate, plus 2%, to provide certainty to loan recipients. In addition, the amendments provide that, upon reinstatement, the Loan Recipient is required to repay CIRM up to the amount of revenues arising in whole or in part from the CIRM Funded Project that it obtains. Thus, if the Loan Recipient earns \$1 in revenue on \$4m of remaining principal, it would owe CIRM \$1. Finally, if the Loan Recipient licenses inventions or data/know how from the CIRM Funded Project to a third party after forgiveness, the proposed amendments would require the Loan Recipient to repay the loan to CIRM from any licensing revenues it receives;

(4) Definition of a “Successful” Project: the amendments would clarify that CIRM is entitled to any revenues arising from a CIRM Funded Project which has an appropriate nexus to the revenue stream;

(5) FSC Changes to Loan Agreements: the amendments would permit the FSC to make changes to loan terms even after the RFA has been posted which would be reflected in the loan agreement; (currently the regulations state that the terms such as interest rates, term of loan can only be varied as part of the issuance of the RFA);

(6) Risk Premium Option: the amendments would incorporate the Risk Premium option formally into our LAP, with certain changes made as a result of lessons learned in negotiations with iPierian. Please note that the amendments would extend the sunset provision for the Risk Premium alternative from 18 months to whatever period is needed to capture any loans made pursuant to the Disease Team II and Early Translation III Requests for Proposals, including loans issued pursuant to earlier RFAs; and

(7) Acquisition or Assignment: the amendments would clarify that a successor in interest or assignee of a loan recipient would be required to assume all obligations of the loan recipient under the LAP.