

IIROC Staff Policy Statements – September 2013

The following statements set out Staff’s view on and approach to issues that commonly arise in the negotiation of settlement agreements or in the imposition of sanctions by a hearing panel following a contested hearing.

Suspensions and Permanent Bars

Generally, suspensions should not exceed five (5) years. Absent extraordinary circumstances, any misconduct so serious as to merit a suspension of more than five (5) years should warrant a permanent bar to membership of a Dealer Member firm or a permanent bar to approval or employment of an individual from the securities industry.

Internal Discipline by a Dealer Member

Dealer Members may impose internal discipline against a Regulated Person for circumstances that give rise to IIROC disciplinary proceedings. This practice is to be encouraged as it is appropriate for Dealer Members to effectively address the conduct of its employees and to encourage and foster a culture of compliance.

IIROC Staff will consider internal discipline measures when considering the sanctions to be sought in IIROC disciplinary proceedings. However, it would be an exceptionally rare circumstance where internally imposed disciplinary sanctions would result in no IIROC disciplinary proceeding. IIROC has a public interest mandate and it is not possible to fulfill this mandate by limiting or eliminating the role of general deterrence in the disciplinary process. Furthermore, sanctions are intended to inform industry participants and the public as to the consequences of regulatory contraventions. While internal discipline measures may reduce the quantum of regulatory sanctions to be sought, it should not be the expectation that the imposition of internal discipline will limit further disciplinary proceedings.

Credit for Cooperation

Required Cooperation

IIROC Rules require Regulated Persons to cooperate fully with investigations and respond to requests for information (whether the requests are for written statements, documents or other information) in a timely and straightforward manner.

A respondent cannot claim credit for proactive and exceptional cooperation while consistently missing investigation deadlines, providing incomplete or misleading responses to information or document requests, or otherwise delaying or impeding the progress or completion of an investigation.

Proactive and Exceptional Cooperation

In light of the general requirement to cooperate with IIROC investigations, only a record of cooperation that is proactive and exceptional will be considered as a mitigating factor for the sanctions sought against a respondent.

The following are examples of factors that may be considered in assessing a firm or individual's cooperation:

- prompt and detailed self-identification of suspected or uncovered misconduct;
- early self-identification of contraventions followed by thorough internal reviews, the results of which are promptly shared with IIROC Staff;
- substantial assistance to Staff's investigation by obtaining and providing evidence and/or testimony from persons beyond the jurisdiction of IIROC; and
- whether the cooperation led to an early resolution of the matter.

Credit for Cooperation

Proactive and exceptional cooperation allows investigations to be commenced, conducted and completed more quickly using fewer resources, thereby allowing IIROC to deploy its resources more efficiently and effectively to other matters. For these reasons, respondents will be given credit for the purposes of sanctions where proactive and exceptional cooperation is provided to IIROC Staff. However, the extent of credit will vary depending upon the other factors such as the nature of the contravention, the extent of harm to clients and/or market integrity, the duration and extent of the misconduct, and the existence of a prior related disciplinary record. For example, where the misconduct is so egregious, the overall objectives of sanctioning necessitate a severe sanction notwithstanding whether there was proactive and exceptional cooperation from the respondent.