

IIROC NOTICE

Rules Notice
Request for Comment
Dealer Member Rules and UMIR

Please distribute internally to:
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Request for Comment on Revised Sanction Guidelines and related Staff Policy Statements

Summary

IIROC is publishing for public comment, consolidated and updated Sanction Guidelines (the “Revised Sanction Guidelines”). The Revised Sanction Guidelines (attached as Appendix A) consolidate and replace the current Dealer Member Sanction Guidelines and UMIR Sanction Guidelines, which assist in determining appropriate sanctions in IIROC disciplinary proceedings. The Revised Sanction Guidelines set out the sanction principles and factors that may be considered in connection with the imposition of sanctions in IIROC disciplinary proceedings.

In addition, IIROC is publishing for public comment three companion policy statements that provide stakeholders with guidance regarding Staff’s approach to the issues of:

- suspensions and permanent bars;
- internal discipline by a Dealer Member; and
- credit for cooperation

each of which commonly arise in the negotiation of settlement agreements or in the imposition of sanctions by a hearing panel following a contested disciplinary proceeding (“Staff Policy Statements”).



The three Staff Policy Statements are attached as Appendix B to the Board and are discussed below under the heading “Related Staff Policy Statements”.

Objectives of the Revisions to the Sanction Guidelines

The Revised Sanction Guidelines have been drafted to:

1. consolidate and update the two existing sanction guidelines; and
2. clearly articulate the general principles and key factors in a concise, streamlined document.

Staff believes that this will promote greater transparency and clearly convey to stakeholders how Staff will, and hearing panels may, approach sanctioning decisions in an enforcement proceeding.

Description and Historical Context of Current Sanction Guidelines

In 2002 both the Investment Dealers Association (“IDA”) and Regulation Services Inc. (“RS”) developed their own sanction guidelines (currently referred to as Dealer Member and UMIR Sanction Guidelines, respectively).

These sanction guidelines served two primary, but distinct purposes:

- 1) to set out general principles applicable to sanctions and key factors for hearing panels to consider when determining sanctions after a contested hearing, or when considering a proposed settlement agreement; and
- 2) to provide specific guidance to industry participants and stakeholders as to the appropriate fines, including prescribing minimum fines and/or fine ranges, and additional sanction terms (i.e. disgorgement, suspensions or bars, heightened supervision, etc.) for certain specific regulatory contraventions.

Since the merger of the IDA and RS in 2008, IIROC has used both the Dealer Member Sanction Guidelines and UMIR Sanction Guidelines, depending upon the regulatory contravention at issue.

The Dealer Member and UMIR Disciplinary Sanction Guidelines have been relied upon by Staff and respondents to IIROC disciplinary proceedings, as well as IIROC hearing panels, to assist in determining the appropriate sanctions in a given case, although it should be noted that they are not binding on the parties and are not intended to fetter the discretion of the hearing panel.

Over the last decade, a body of IIROC disciplinary decisions has developed which sets out general sanctioning principles and relevant factors for consideration. In part, these decisions relied and built upon the current sanction guidelines. These decisions, coupled with the current sanction guidelines, are relied on by Staff, respondents, and hearing panels in determining the appropriate sanctions in a given case. The decisions are readily available and accessible to members of the public on IIROC’s website.



The Revised Sanction Guidelines

The Revised Sanction Guidelines are divided into 2 parts:

Part I – *Sanction Principles for IIROC Disciplinary Proceedings*, which provides a framework based on principles enumerated in IIROC hearing panel and provincial securities commission decisions that should be considered in connection with the imposition of sanctions in all cases.

Part II – *Key Factors in Determining Sanctions*, which provides a list of factors commonly taken into consideration when making a determination as to an appropriate sanction.

The Revised Sanction Guidelines reflect the following material changes to the current sanction guidelines, namely: (1) the elimination of prescribed fine ranges and/or suggested minimum fines; and (2) the treatment of a respondent's inability to pay. These material changes are summarized further below.

Discussion of Material Changes to Current Sanction Guidelines

1. Prescribed Fine Ranges or Minimum Fines

Currently, the Dealer Member Sanction Guidelines suggest a minimum fine only, while the UMIR Sanction Guidelines include both a minimum and a maximum range or for certain contraventions, such as manipulative and deceptive trading, recommend the maximum fine allowed under the rules. In Staff's view, specific guidelines for itemized regulatory violations are no longer necessary or useful.

The removal of specific guidelines for itemized regulatory violations will address the mistaken notion that sanction decisions are formulaic and determined through the application of a "check-list", and will reinforce the concept that appropriate sanctions are determined on a case-by-case basis, having regard to the relevant principles, factors and specific circumstances of the matter.

It is important to note that the Revised Sanction Guidelines do not purport to be a codification of sanctions that a hearing panel must apply in any particular matter. Each case must be determined on its own specific facts and, accordingly, hearing panels' discretion, to impose the sanctions that they consider appropriate in the circumstances of a particular case remains unfettered.

2. Inability to Pay

This proposed material change is in part to address the discrepancy that currently exists between the Dealer Member and UMIR Sanction Guidelines. While the UMIR Sanction Guidelines expressly address the issue, the Dealer Member Sanction Guidelines are silent on the point. The Revised Sanction Guidelines expressly provide that a respondent's *bona fide* inability to pay may be considered as a factor in sanctioning and sets out the general framework for raising it before a hearing panel.



Cases from various provincial securities commissions make it clear that the inability to pay should be considered by a hearing panel in appropriate circumstances. The issue must, however, be raised by the respondent and the onus is on the respondent to establish a *bona fide* inability to pay. However, the proposed principle recognizes that an inability to pay will become a less relevant consideration, if at all, where the respondent's conduct is egregious.

Staff Policy Statements

As noted, in conjunction with the Revised Sanction Guidelines, IIROC is also publishing for comment policy statements dealing with suspensions and permanent bars, internal discipline by a Dealer Member, and credit for cooperation to provide stakeholders with guidance regarding Staff's approach to these issues.

It should be noted that the Staff Policy Statements are not a part of the Revised Sanction Guidelines but are being published for comment simultaneously in order to ensure that Staff's views regarding these issues are communicated to stakeholders at the same time as they are being asked to consider and comment on the Revised Sanction Guidelines.

1. Suspensions and Permanent Bars

The Policy Statement addressing suspensions and permanent bars sets out Staff's view that absent extraordinary circumstances, specific period suspensions greater than 5 years should be eliminated. Staff believes that if conduct is sufficiently egregious that a suspension of 5 years or greater is warranted, a permanent bar will normally be sought. This accords with practical reality; any suspension longer than 5 years is likely to eliminate a registrant's book of business and make re-entry into the securities industry very difficult, as well as the assumption that any behaviour warranting a suspension greater than 5 years suggests that the individual is no longer fit to be an IIROC registrant. Empirical data supports this new approach. Since 2008, there have been few disciplinary cases in which a suspension greater than 5 years was imposed. More specifically, suspensions greater than 5 years comprised only 10% of all disciplinary cases in which a suspension or a permanent bar was imposed. Finally, this approach also accords with the approach taken by FINRA, although FINRA's threshold is set lower at 2 years.

2. Internal Discipline by a Dealer Member

This Policy Statement addressing internal discipline confirms that Staff will consider discipline imposed by the registrant's employer as a mitigating factor and that Hearing Panels will be encouraged to identify this factor in their decisions in order to encourage "compliant cultures" at Dealer Members. The Policy Statement makes clear, however, that Staff does not believe that internally imposed



discipline necessarily abrogates the need for formal discipline by IIROC Enforcement. IIROC has a public interest mandate and it is not possible to fulfill that mandate by limiting or eliminating the role of general deterrence in the sanctioning process and the transparency that flows therefrom.

3. *Credit for Cooperation*

In this policy statement, Staff expressly draws a distinction between “Required Cooperation” and “Proactive and Exceptional Cooperation” which goes above and beyond required cooperation.

Required Cooperation

Registrants have a duty to provide complete information promptly and in a straightforward manner. In light of this, credit for simply complying with an already existing contractual commitment should not normally be seen as a mitigating circumstance. The converse, however, is not true; given the obligation to cooperate, efforts to frustrate or prolong an investigation may be considered to be an aggravating factor.

Proactive and Exceptional Cooperation

In light of the general obligation of registrants to cooperate with the process of self-regulation, only where a respondent can demonstrate a record of disclosure and cooperation that is proactive and exceptional may these serve as mitigating factors. The following factors are set out in the policy statement and may be considered by Staff in assessing the Dealer Member or registrant’s cooperation:

- Prompt and detailed self-identification of suspected or uncovered misconduct;
- Early self-identification of contraventions followed by thorough internal reviews and facts discovered are shared with Staff;
- Substantial assistance is provided to an investigation by obtaining and providing evidence and/or testimony from persons beyond the jurisdiction of IIROC.

Credit for Proactive and Exceptional Cooperation

Proactive and exceptional cooperation allows investigations to be commenced, conducted and completed more quickly using fewer resources, thereby allowing IIROC to deploy its enforcement resources to pursue other critical matters. Thus as a policy matter, IIROC intends to reward proactive and exceptional cooperation in appropriate cases.

Alternatives Considered

Staff considered whether there was a continuing need for sanction guidelines and whether they should be eliminated entirely. Staff conducted comparative research and found that sanction



guidelines were not widely adopted among disciplinary bodies, including by the provincial securities commissions. Most organizations simply rely on the principles and factors enumerated in tribunal and court decisions. The use of detailed sanction guidelines appear to be unique to SROs including the Mutual Fund Dealers Association (“MFDA”) and in the U.S., FINRA.

Staff believes, however, that having sanction guidelines will serve IIROC stakeholders most effectively by ensuring that the factors that may be considered by Hearing Panels are clearly delineated in a transparent, concise document.

In particular, Staff believes that:

- 1) Staff and respondents benefit from receiving clear guidance as to factors to consider when assessing appropriate sanctions;
- 2) Industry participants are informed as to how sanctions will be assessed by Staff and the general principles and key factors which will be considered by hearing panels; and
- 3) Members of the public will better understand the general principles and key factors that may be applied by hearing panels when determining sanctions.

In the process of developing the Revised Sanction Guidelines, Staff reviewed sanction guidelines or other documents relating to the determination of appropriate sanctions used by other securities regulatory bodies, including FINRA, the MFDA, the Financial Services Authority, the Australian Securities & Investments Commission and the New York Stock Exchange.

Staff carefully considered the various approaches set out by these securities regulatory bodies to inform the approach taken in the Revised Sanction Guidelines.

Request for Public Comment

IIROC Stakeholders are encouraged to review and comment on the Revised Sanction Guidelines as well as the Staff Policy Statements.

Staff is particularly interested in stakeholders’ views with respect to the following questions:

- Is it appropriate for Staff to seek a permanent bar in cases where the registrant’s conduct warrants a suspension in excess of 5 years?
- If so, is 5 years the appropriate threshold?
- Should there be more specific guidance and/or factors to assist in the determination of whether a suspension/permanent bar is appropriate?



- How should internal discipline, imposed by a registrant's employer, impact the determination of sanctions?

The public comment period will be 90 days in length.

Next Steps

Following the close of the comment period, Staff intends to:

1. Invite those who submit written comments to a meeting with Staff to discuss issues regarding the Revised Sanction Guidelines and Staff Policy Statements in greater depth;
2. Draft a consolidated response to the written comments received; and
3. Make revisions, where appropriate, to the proposed Revised Sanction Guidelines and Staff Policy Statements to address any of the comments received.

Comments regarding the Revised Sanction Guidelines should be in writing and delivered by February 3, 2014 to:

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Commentators should be aware that a copy of their comment letter will be made publicly available on the IIROC website (www.iiroc.ca).



Appendix A

Revised IIROC Sanction Guidelines

Application

The IIROC *Sanction Guidelines* supersede and replace all previous versions of both the *Dealer Member Disciplinary Sanction Guidelines* and the *UMIR Disciplinary Sanction Guidelines*.

The IIROC *Sanction Guidelines* are effective as of the date of publication and will be applied by Staff to all pending disciplinary and settlement proceedings. IIROC may amend these *Sanction Guidelines* by issuing a public notice that amendments have been made and posting the amended version on the IIROC website (www.iiroc.ca).

Purpose of Sanction Guidelines

IIROC is the national self-regulatory organization which oversees all investment dealers and trading activity on debt and equity marketplaces in Canada.

IIROC sets high quality regulatory and investment industry standards, protects investors and strengthens market integrity while maintaining efficient and competitive capital markets. IIROC carries out its regulatory responsibilities through setting and enforcing rules regarding the proficiency, business and financial conduct of dealer firms and their registered employees and through setting and enforcing market integrity rules regarding trading activity on Canadian equity marketplaces.

The primary purpose of IIROC disciplinary proceedings is to maintain high standards of conduct in the securities industry and to protect market integrity.

The *Sanction Guidelines* are intended to promote consistency, fairness and transparency by providing a framework to guide the exercise of discretion in determining sanctions which meet the general sanctioning objectives.

The *Sanction Guidelines* are intended to assist:

- IIROC Enforcement Staff and respondents in the negotiation of settlement agreements;
- hearing panels in determining whether to accept settlement agreements; and
- hearing panels in the fair and efficient determination of appropriate sanctions after disciplinary hearings.



Overview of Sanction Guidelines

The *Sanction Guidelines* are divided into two parts:

Part I – Sanction Principles for IIROC Disciplinary Proceedings provides a framework that should be considered in connection with the imposition of sanctions in all cases.

Part II – Key Factors in Determining Sanctions provides a list of factors commonly taken into consideration when making a determination as to an appropriate sanction.

The determination of the appropriate sanction in any given case is discretionary and a fact specific process. The appropriate sanction depends on the facts of a particular case and the circumstances of the conduct. Hearing panels retain the discretion to impose the sanctions they consider appropriate.

The general principles and key factors set out in Parts I and II are not intended to fetter the discretion of a hearing panel in determining an appropriate sanction.



Part I – Sanction Principles for IIROC Disciplinary Proceedings

The following principles provide a framework that should be considered in connection with the imposition of sanctions in all cases.

1. Disciplinary sanctions are preventative in nature and should be designed to protect the investing public, strengthen market integrity, and improve overall business standards and practices.

The purpose of sanctions in a regulatory proceeding is to protect the public interest by restraining future conduct that may harm the capital markets.¹ In order to achieve this, sanctions should be significant enough to prevent and discourage future misconduct by the respondent (specific deterrence), and to deter others from engaging in similar misconduct (general deterrence).

When considering specific and general deterrence in the imposition of sanctions, consideration should be given to the size of the Dealer Member, including the firm's financial resources, nature of the firm's business, and the number of individuals associated with the firm, with a view toward ensuring that the sanctions imposed are sufficient to achieve deterrence. Similarly, with respect to an individual respondent, consideration should be given to a *bona fide* inability to pay when imposing a fine (see General Principle No. 7).

General deterrence can be achieved if a sanction strikes an appropriate balance by addressing a Regulated Person's specific misconduct but is also in line with industry expectations.² Any sanction imposed must be proportionate to the conduct at issue and should be similar to sanctions imposed on respondents for similar contraventions in similar circumstances. The sanction should be reduced or increased depending on the relevant mitigating and aggravating factors.

2. Disciplinary sanctions should be more severe for respondents with prior disciplinary records.

A respondent's prior disciplinary record is an aggravating factor and may warrant a harsher sanction than would be required had this been the respondent's first disciplinary contravention.

A prior disciplinary record for a similar or identical contravention strongly suggests that the prior sanction was not a sufficient deterrent, thereby necessitating an increased sanction in order to

¹See for example, *Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, [2001] 2 S.C.R. 132 at para. 43.

²In *Re Mills*, [2001] I.D.A.C.D. No. 7 at p. 3, the Hearing Panel observed: "Industry expectations and understandings are particularly relevant to general deterrence. If a penalty is less than industry understandings would lead its Members to expect for the conduct under consideration, it may undermine the goals of the Association's disciplinary process; similarly, excessive penalties may reduce respect for the process and concomitantly diminish its deterrent effect. Thus the responsibility of the [hearing panel] in a penalty hearing is to determine a penalty appropriate to the conduct and respondent before it, reflecting that its primary purpose is prevention, rather than punishment."



address specific deterrence. However, a prior record where the misconduct is different may nonetheless be a factor to consider and it may demonstrate a respondent's general disregard for compliance with regulatory requirements, the investing public or market integrity in general. A prior disciplinary record becomes less relevant as it becomes more dated.

3. For multiple violations, the total or cumulative sanction should appropriately reflect the totality of the misconduct.

Where there are multiple violations, the overall sanction imposed should not be excessive or disproportionate to the gravity of the total misconduct at hand. For this reason, a global approach to sanctioning may be appropriate where the imposition of a sanction for each contravention would have the effect of imposing on the respondent a cumulative sanction that is excessive.

Depending on the facts and circumstances of a case, however, multiple contraventions may be treated individually such that a sanction is imposed for each contravention so long as the total sanction is proportionate to the overall misconduct.

In addition, numerous, similar contraventions may warrant higher sanctions, since the existence of multiple contraventions may be treated as an aggravating factor.

4. Sanctions should ensure that a respondent does not financially benefit as a result of the misconduct.

It is a fundamental tenet that wrong-doers should not benefit from their wrong-doing. Accordingly, in cases where the respondent benefited financially from the misconduct, the sanction, where possible, should include a disgorgement of the amount of any such financial benefit. Financial benefit would include any profits, commissions, fees, or any other compensation or other benefit received by the respondent, directly or indirectly, as a result of the misconduct. Financial benefit may include any loss avoided as a result of the misconduct.

5. A suspension should be considered where:

- there has been one or more serious contraventions;
- there has been a pattern of misconduct;
- the respondent has a prior disciplinary history;
- the contraventions involved fraudulent, willful and/or reckless misconduct; or
- the misconduct in question has caused some measure of harm to the integrity of a marketplace or the securities industry as a whole.

Where the contravention relates to a respondent acting in a supervisory capacity, it may be appropriate to suspend the respondent from all registered capacities when the supervisory failings



are so severe as to call into question the respondent's general fitness to act in any registered capacity.

6. A permanent bar should be considered where:

- the contraventions involve significant harm to the integrity of the market or the securities industry;
- the members of the investing public have been abused;
- the misconduct had an element of criminal or quasi-criminal activity; or
- there is reason to believe that the respondent cannot not be trusted to act in an honest and fair manner in their dealings with the public, their clients, and the securities industry as a whole.

A hearing panel should consider imposing a fine and requiring disgorgement even where a permanent bar is imposed in egregious cases involving significant harm to clients or to the integrity of the securities industry as a whole.

7. Inability to pay is a factor when considering an appropriate monetary sanction or costs only when raised by the respondent.

Inability to pay is a relevant consideration in determining the appropriate financial sanctions to be imposed on a respondent. It should not be considered a predominant or determining factor, but it is a relevant factor depending on the circumstances of the misconduct.

The hearing panel should consider a respondent's *bona fide* inability to pay when imposing a fine. The burden is on the respondent to raise the issue and provide evidence of financial hardship. The hearing panel should require respondents who raise the issue of inability to pay to document their financial status through sworn affidavits or declarations, along with standard or commonly accepted documents, such as tax returns, audited financial statements or other externally verified financial statements.

Evidence of inability to pay does not require the reduction or waiver of a fine, but could instead result in the imposition of an installment payment plan. In cases in which a hearing panel reduces or waives a fine based on a *bona fide* inability to pay, the written decision should so indicate.

Although a hearing panel should consider a respondent's *bona fide* inability to pay when the issue is raised by a respondent, monetary sanctions imposed on individual's or Dealer Member firms need not be related to or limited by the individual's ability to pay or the firm's size or capital position.



Where the misconduct is egregious, hearing panels should consider the weight, if any, that should be given to an individual's ability to pay or a firm's size or risk adjusted capital position in determining the appropriate monetary sanction.

8. In determining the appropriate sanction, a respondent's proactive and exceptional assistance to IROC in the investigation will be considered.

IROC Rules require a respondent to cooperate fully with investigations and respond to requests for information in a timely and straightforward manner.

In light of the general requirement to cooperate with IROC investigations, only assistance by a respondent that is proactive and exceptional should be considered as a mitigating factor in imposing sanctions.

9. Remedial sanctions tailored to the specific misconduct can be a useful tool in effectively addressing regulatory misconduct.

Sanctions in disciplinary proceedings are intended to prevent the recurrence of misconduct and deter others from similar misconduct. Therefore, sanctions may be tailored to the misconduct at issue in each case. This necessitates a review of the nature of the misconduct and both the aggravating and mitigating factors and the degree of responsibility by the respondent.

To address the misconduct effectively in any given case, a hearing panel may design specific remedial sanctions in addition to, and other than, a fine, disgorgement or suspension. For example, a hearing panel may impose sanctions that:

- (i) require a Dealer Member firm to submit for the Corporation approval and/or implement procedures for improved future compliance with regulatory requirements;
- (ii) require a Dealer Member firm to retain a qualified independent consultant to develop and/or implement procedures for improved compliance with regulatory requirements;
- (iii) require a Dealer Member firm to implement heightened supervision of certain individuals or branches / departments in the firm;
- (iv) limit the activities of a Regulated Person, including suspending or barring a Regulated Person from acting in a supervisory capacity; or
- (v) require professional re-qualification by the writing of an exam or the successful completion of a remedial course of study.

This list is illustrative, not exhaustive, and is included to provide examples of the types of sanctions that may be designed to address specific misconduct.



Part II – Key Factors in Determining Sanctions

The following list of key factors should be considered when determining sanctions with respect to all contraventions. This list sets out commonly considered factors and is intended to be illustrative, not exhaustive.

1. The number, size and character of the transactions at issue.
2. Whether the respondent engaged in numerous acts and/or a pattern of misconduct.
3. Whether the respondent engaged in the misconduct over an extended period of time.
4. Whether the misconduct was intentional, willfully blind, or reckless with respect to regulatory requirements.
5. Extent of harm to clients or other market participants.
6. Extent of harm to market integrity or the reputation of the marketplace, or both.
7. The level of vulnerability of the injured or affected client(s).
8. The respondent’s relevant disciplinary history (see General Principle No. 2).
9. Extent to which the respondent obtained or attempted to obtain a financial benefit from the misconduct (see General Principle No. 4).
10. In the case of individuals, whether the respondent accepted responsibility for and acknowledged the misconduct to his or her employer or the regulator prior to detection and intervention by the Dealer Member or the regulator.
11. In the case of a Dealer Member, whether the respondent accepted responsibility for and acknowledged the misconduct to the regulator prior to detection and intervention by the regulator.
12. Whether an individual respondent was subject to internal discipline by the Dealer Member (see Staff Policy Statement on “Internal Discipline by a Dealer Member”).
13. Whether an individual respondent or Dealer Member respondent voluntarily employed subsequent corrective measures to revise general and/or specific procedures to avoid recurrence of misconduct.
14. Whether the respondent made voluntary acts of compensation, including voluntary disgorgement of commissions, profits, other benefits and/or payment of restitution to clients.



15. Whether the respondent provided proactive and exceptional assistance to IIROC in the investigation of the misconduct (See General Principal No. 8 and see also Staff Policy Statement on “Credit for Cooperation”).
16. Whether the respondent attempted to delay IIROC’s investigation, to conceal information from IIROC, or intentionally provided inaccurate or misleading testimony or documentary information to IIROC.
17. Whether the respondent demonstrated reasonable reliance on competent supervisory, legal or accounting advice.
18. Whether at the time of the contravention, an individual respondent’s Dealer Member firm had developed adequate training and educational initiatives with respect to the misconduct at issue.
19. Whether the respondent attempted to conceal his or her misconduct or to lull into inactivity, mislead, deceive or intimidate a client, regulatory authorities or, in the case of an individual respondent, the member firm with which he or she is/was associated.
20. Whether the respondent failed to heed regulatory guidance with respect to the misconduct at issue.
21. Whether the respondent engaged in the misconduct at issue notwithstanding prior warnings from IIROC, another regulator or a supervisor (in the case of an individual respondent) that the conduct contravened firm policies, IIROC rules or applicable securities laws or regulations or was not in the best interests of the client or public.



Appendix B

IIROC Staff Policy Statements

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.