



POLICY REGARDING USE AND DISCLOSURE OF PERSONAL INFORMATION IN IIROC DISCIPLINARY PROCEEDINGS

Application

The IIROC *Policy Regarding Use and Disclosure of Personal Information in IIROC Disciplinary Proceedings* is effective as of **May 1, 2015** and will apply to all disciplinary and settlement proceedings.

Purpose

The purpose of this policy is to provide guidance and assistance regarding the use and disclosure of personal information in proceedings brought pursuant to Rule 20 of the IIROC Dealer Member Rules and Part 10 of the Universal Market Integrity Rules (UMIR). This policy replaces the previous IIROC “Policy on Requests for Access to Disciplinary Hearing and Settlement Hearing Records”.

This policy sets out some limits on the use and disclosure of personal information referred to in the course of hearings, or collected as part of the hearing record, in matters before IIROC Hearing Panels.

For the purposes of this policy, personal information includes recorded information about an individual, and includes, but is not limited to, the following:

- Full names (leaving initials – i.e., the first initial of the given name, and first initial of the surname);
- Social insurance numbers, driver’s licence numbers, passport numbers, licence plate numbers and health card/OHIP numbers;
- The date of birth (but not the year of birth);
- The municipal address, including street name, number and postal code (but not city or province);
- Telephone numbers;
- Email addresses;
- The names of spouses and children.

This Policy does not require the redaction of the names of respondents. Other personal information of a respondent may also be excluded from this policy, if, in the discretion of the Hearing Panel, such information is relevant to the proceeding before it.

The full name of an individual is personal information, but where it appears together with a title and contact information that identifies the individual in a business, professional or official capacity it may not need to be redacted.

Documents filed with the National Hearing Coordinator (NHC)

Parties filing documents with the NHC pursuant to the Rules of Practice and Procedure should make all reasonable efforts to limit the disclosure of personal information of individuals, in accordance with this policy. Documents filed with the NHC should be redacted to remove personal information. However, clean copies of any documents should be available for viewing by the Hearing Panel, if requested.

This policy does not apply to documents exchanged between IIROC Staff and respondent(s). Only the documents filed with the NHC are required to be redacted. Copies exchanged between the parties pursuant to the Rules of Practice and Procedure are not required to be redacted in accordance with this policy.

The Hearing Record

The hearing record includes any information or document that is collected, received, stored, maintained or archived by IIROC in connection with its proceedings, including:

- The Application or Notice of Hearing by which a proceeding was commenced;
- Settlement agreements which have been accepted by a Hearing Panel;
- Any interlocutory orders made by the Hearing Panel;
- All documentary evidence filed with the NHC or directly with the Hearing Panel;
- The transcript, if any, of the oral evidence given at the hearing; and
- The Reasons for Decision of the Hearing Panel

The hearing record does not include:

- Hearing notes, personal notes, legal opinions, memoranda, drafts of reasons and similar documents and information prepared and used by members of the Hearing Panel or the National Hearing Coordinator; and
- Records maintained by IIROC that are not connected with proceedings under Rule 20 or Part 10 as referenced above.

Availability of Hearing Record to the Public

IIROC Dealer Member Rule 20.50 and UMIR Part 10.8 provide that hearings held under these rules shall be open to the public, with limited exceptions. Consistent with this open-hearing principle, IIROC makes the hearing record available to members of the public, upon receipt of a written request.

However, both Rules allow for a hearing to be conducted in the absence of the public in certain circumstances:

The hearings prescribed in subsection (1) shall be held in the absence of the public where the Hearing Panel is of the opinion that the desirability of avoiding disclosure, of intimate financial, personal or other matters, in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be public. (Rule 20.50(2))

In the opinion of the Hearing Panel, intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public. (Rule 9.7 of Part 10.8)

Public access to the hearing record will be limited to a redacted version with all personal information expunged. Public access includes publishing on the IIROC website, and through individual requests for the hearing record.

Application to Hearing Panel Reasons for Decision

When making a decision, the Hearing Panel will, to the extent possible, not refer to any personal information as set out in this policy. In so doing, the Hearing Panels will endeavor to balance the need to include relevant information against the privacy interests of individuals involved.

For example, where appropriate, and at the discretion of the Hearing Panel, initials or similar anonymous identifiers will be substituted for the names of individuals other than the respondent referred to in the decision so as to keep their identities private.

This policy is not intended in any way to impede or fetter the discretion of a Hearing Panel to make rulings as it deems appropriate in the circumstances, or to make decisions regarding the use and disclosure of personal information of any party or participant in any disciplinary hearing.

Documents from the Hearing Record on the IIROC website

IIROC's website contains some parts of the hearing record, including the Notices of Hearing, settlement agreements, and reasons for decisions.

Unless otherwise ordered by the Hearing Panel, the redacted version of these documents, with all personal information expunged, will be posted on the IIROC website.

Requests for the Hearing Record

The publicly accessible hearing record in an enforcement hearing will only be made public at the close of the evidence in that hearing. Unless otherwise ordered by the Hearing Panel, the redacted version of these documents, with all personal information expunged, will be provided in response to public requests.

Requests for the hearing record must be made in writing and should be directed to the NHC at nhc1@iroc.ca. Photocopying charges and transcription charges will apply. In unusual cases where there are excessive costs to retrieve and to photocopy the information, the NHC will provide an estimated cost and timeline. In these cases, the NHC may request that a deposit or payment in full be received before the request is processed.

(Revised January 2016)