

10.8 Practice and Procedure - Repealed

POLICY 10.8 - PRACTICE AND PROCEDURE

4.3 Date of Hearing

- (2) *For greater certainty, any hearing of a matter after the date of the initial hearing specified in the Notice of Hearing shall be as directed or ordered by the Hearing Panel.*

9.5 Order for Particulars or Amendment

At any time in a hearing, the Hearing Panel may order:

- (a) *any party to provide to any other party such particulars as the Hearing Panel considers necessary for a full and satisfactory understanding of the subject of the hearing; and*
- (b) *after providing the parties an opportunity to make submissions, that the Statement of Allegations be amended in accordance with the evidence introduced at the hearing.*

9.7 Public Access to Hearing

- (1) *Subject to subsections (2) and (3), each hearing shall be conducted in a manner:*
- (a) *in the case of an oral hearing, to be open to the public;*
- (b) *in the case of a written hearing, to provide the public with reasonable access to the documents submitted at the office of the Market Regulator during ordinary business hours; and*
- (c) *in the case of an electronic hearing, to provide the public with reasonable access to the proceedings.*
- (2) *A hearing shall be conducted in the absence of the public in the case of an oral or electronic hearing or without access to the documents submitted in the case of a written hearing if:*
- (a) *a specific provision of UMIR or any Policy provides that a hearing be conducted in the absence of the public or without access to the documents submitted;*
- (b) *in the opinion of the Hearing Panel, the absence of the public from an oral or electronic hearing is necessary for the maintenance of order at the hearing; and 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.*

- (3) *Despite subsection (2), a hearing by a Hearing Panel in Quebec shall be public provided the Hearing Panel, on its own initiative or at the request of a party, may order the hearing be held in camera or ban the publication or release of any information or documents it indicates in the interest of morality or public order.*
- (4) *If a Hearing Panel decides that a hearing to consider a Settlement Agreement shall be conducted in the absence of the public in the case of an oral or electronic hearing or without access to the documents submitted in the case of a written hearing;*
 - (a) *any record or transcript of the hearing or any document or other thing tendered at the hearing shall be made available to the public if the Hearing Panel approves the Settlement Agreement; and*
 - (b) *any record or transcript of the hearing and any document or other thing tendered at the hearing shall not be made available to the public if the Hearing Panel rejects the Settlement Agreement.*
- (5) *Despite subsection (4), if a Hearing Panel in Quebec approves a Settlement Agreement, any record or transcript of the hearing or any document or other thing tendered at the hearing shall not be made available to the public if the hearing is subject to an order that the hearing be held in camera or a ban on the publication or release of any information or documents except to the extent that such order is varied or vacated.*

Part 10 – Selection of Hearing Panels

10.1 Selection of Hearing Panel

Upon the issuance of a Notice of Hearing or upon acceptance of an Offer of Settlement, the Secretary shall select a Hearing Panel in accordance with Schedule C.1 to the Investment Industry Regulatory Organization of Canada’s Transition Rule 1 – Hearing Committee and Hearing Panels Rule.

Defined Terms:	UMIR section 1.1 – “document”, “employee”, “Market Regulator”, “Policy”, “Requirements” and “UMIR” UMIR section 1.2(2) – “person” UMIR Policy 10.8 section 1.1 – “applicant”, “electronic hearing”, “oral hearing”, “party”, “Secretary” and “written hearing”
Regulatory History:	Effective January 30, 2004, the applicable securities commissions approved amendments to Policy 10.8 to add subsections (1), (2) and (3) of section 9.7 of Policy 10.8. See Market Integrity Notice 2004-004 – “ Public Access to Hearings ” (January 30, 2004). Effective January 7, 2005, the applicable securities commissions approved amendments to Policy 10.8. See Market Integrity Notice 2005-002 – “ Practice and Procedure ” (January 7, 2005). Effective March 11, 2005, the applicable securities commissions approved amendments to Policy 10.8 to repeal the definition of “document”. See Market Integrity Notice 2005-008 – “ Provisions Respecting Impeding or Obstructing a Market Regulator ” (March 11, 2005). Prior to that date, the definition provided: <i>“document” includes a sound recording, videotape, film, photographs, chart, graph, map, plan, survey, book of account, and information recorded or stored by means of any device.</i> In connection with the recognition of IIROC and its adoption of UMIR, the applicable securities commissions approved amendments to Policy 10.8 that came into force on June 1, 2008. See Footnote 1 of Status of Amendments . Effective December 9, 2013, the applicable securities commissions approved amendments to the French version of UMIR. See IIROC Notice 13-0294 – “ Amendments to the French version of UMIR ”

(December 9, 2013).

Effective September 1, 2016, the applicable securities commissions approved amendments to Rule 10.8 and Policy 10.8, which include the repeal of Rule 10.8, as it will be replaced by consolidated rule 8401. See IROC Notice [16-0122](#) – “Implementation of the consolidated IROC Enforcement, Examination and Approval Rules” (June 9, 2016).

Disciplinary Proceedings: In the Matter of Steven James Regoci (“Regoci”) and David Stanley Chernoff (“Chernoff”) (April 21, 2004) Decision 2004-003

Facts - On July 16, 2003, TSX Venture Exchange Inc. (TSXV) released a Notice of Hearing which named Regoci and Chernoff. The purpose of the hearing was to determine whether Chernoff and Regoci contravened Vancouver Stock Exchange Rules (“VSE”) and Alberta Stock Exchange (“ASE”) By-Laws. During the relevant period, both Regoci and Chernoff were within the jurisdiction of the VSE and ASE. The jurisdictions of those bodies was assumed, effective November 29, 1999, by the Canadian Venture Exchange Inc. (now TSXV). After a pre-hearing conference and prior to the hearing date, the TSX withdrew its Notice of Hearing and took the position that the subject matter of the allegations would be referred to the British Columbia Securities Commission. Counsel for Chernoff objected, asserting that the TSXV could not unilaterally withdraw the Notice of hearing and that the panel should instead dismiss the matter.

Held – Subject to specific circumstances, which are satisfied in this matter, the TSXV has the authority to unilaterally withdraw a Notice of Hearing.

Comparable UMIR Provision – Rule 10.8.