

## Rule 9400

### Procedures for Opportunities to be Heard Before Decisions on Approval and Regulatory Compliance Matters

#### 9401. Introduction

- (1) These procedures apply where *IIROC requirements* require an opportunity to be heard before:
  - (i) a *District Council* (including the *District Council's* delegate where authority has been delegated to a *Registration Subcommittee* or *IIROC* staff),
  - (ii) a *senior officer* who has the authority to make a decision concerning an individual or a *Dealer Member*, or
  - (iii) the Board of Directors concerning an *application* for *Dealer Member* membership in *IIROC*.
- (2) These procedures will be followed where, under statutory authority that has been delegated to *IIROC*, *IIROC* makes a registration decision for which an opportunity to be heard is required under applicable *securities legislation*.

#### 9402. Definitions

- (1) In this Rule,

“decision maker” means a *District Council* or *senior officer* with authority to make a decision in a hearing under Rule 9200 (Approvals and Regulatory Supervision).

“District Council” is the applicable District Council that is authorized to act as decision maker for purposes of Rule 9200 (Approvals and Regulatory Supervision) and includes a *Registration Subcommittee* or *Registration Staff* to whom the *District Council* has delegated authority to make approval decisions.

“Registration Staff” refers to registration employees of *IIROC* or employees of *IIROC* who conduct compliance examinations under Rule 9100 (Compliance Examinations).

“Registration Subcommittee” means a subcommittee of a *District Council* to whom authority to make a recommendation under section 9205 has been delegated under subsection 9203(1).

“senior officer” is a senior officer of *IIROC* who has authority to make a decision to impose terms and conditions on a *Dealer Member's* membership under section 9208.

### PART A – OPPORTUNITIES TO BE HEARD BY A DISTRICT COUNCIL OR A SENIOR OFFICER

#### 9403. Opportunities to be heard by a District Council or a senior officer

- (1) The procedures in sections 9404 to 9410 apply where an applicant has requested an opportunity to be heard by a *District Council* or by a *senior officer*.
- (2) These procedures are intended to ensure that opportunities to be heard by a *decision maker* are handled in a way that ensures a fair hearing, without being unnecessarily formal.

#### 9404. Counsel

- (1) A party to a proceeding under this Rule may be represented by counsel or an agent.
- (2) If an applicant, *Approved Person* or *Dealer Member* is represented by counsel or an agent, *Registration Staff* will communicate with the applicant, *Approved Person* or *Dealer Member* through counsel or the agent.

#### 9405. Staff's Notice

- (1) If *Registration Staff* recommends that a *District Council* refuse to grant, revoke, or suspend a

IIROC approval or that terms and conditions be imposed on an approval or membership, Registration Staff must send a letter to the applicant, Approved Person or Dealer Member giving notice of Registration Staff's recommendation and brief reasons for it.

#### **9406. Response of Applicant, Approved Person or Dealer Member**

- (1) If an applicant, Approved Person or Dealer Member wishes to be heard before a decision is made on Registration Staff's recommendation, the applicant, Approved Person or Dealer Member must inform Registration Staff in writing (a "Response").
- (2) A Response must be delivered within ten business days after receipt of IIROC staff's letter, or within such shorter period of time as set out in such letter.
- (3) If a Response is not delivered within the time set out in Registration Staff's letter, Registration Staff will send its recommendation to the decision maker for consideration.

#### **9407. Choice of Written Submissions or Appearance**

- (1) Unless otherwise decided by a decision maker, an opportunity to be heard will be conducted as an exchange of written submissions. However, an applicant, Approved Person, Dealer Member or Registration Staff may request that the opportunity to be heard be conducted as an appearance
  - (i) in the presence of a decision maker,
  - (ii) by telephone conference, or
  - (iii) by other interactive electronic means acceptable to both parties.
- (2) A request that an opportunity to be heard be conducted as an appearance must be made to the decision maker in writing, with a brief statement of the reasons for making the request, and the other party will be given an opportunity to object to the request before the decision maker decides whether to grant a request for an appearance.
- (3) A decision maker may also decide on its own initiative that the opportunity to be heard will be conducted as an appearance, in which case the decision maker must promptly inform the parties of its decision.

#### **9408. Exchange of Written Submissions**

- (1) This section describes the process to be followed if the opportunity to be heard is conducted by exchange of written submissions.
- (2) Registration Staff must provide the applicant, Approved Person or Dealer Member with a written submission setting out the facts and law supporting Registration Staff's recommendation. Registration Staff's submission must be delivered to the applicant, Approved Person or Dealer Member within ten business days after Registration Staff receives the applicant's, Approved Person's or Dealer Member's Response.
- (3) An applicant, Approved Person or Dealer Member must then provide Registration Staff with a written submission responding to Registration Staff's submission, to be delivered within ten business days after the applicant, Approved Person or Dealer Member receives Registration Staff's submission.
- (4) Subject to agreement of the parties or a decision of the decision maker, there will only be one exchange of written submissions so that the decision maker may render a decision without unnecessary delay; however, where the parties agree to make further submissions or either of them requests that the decision maker allow further submissions, such agreement or request must be made within five business days after delivery of the applicant's, Approved Person's or Dealer Member's submission under subsection 9408(3).

- (5) Unless an agreement or request is made under subsection 9408(4), [Registration Staff's](#) and the applicant's, [Approved Person's](#) or [Dealer Member's](#) respective submission will be delivered by [Registration Staff](#) to the [decision maker](#) within five [business days](#) after the applicant's, [Approved Person's](#) or [Dealer Member's](#) submission is delivered.
- (6) If an agreement or request is made under subsection 9408(4), the submissions of all [parties](#) will be delivered by [Registration Staff](#) to the [decision maker](#) when all submissions have been delivered or the time for their delivery has elapsed.

#### **9409. Appearance Before a Decision Maker**

- (1) This section describes the process to be followed if the opportunity to be heard is conducted as an appearance.
- (2) An appearance before a [decision maker](#) will generally be an informal proceeding, and the [Rules of Procedure](#) do not apply.
- (3) At an appearance
  - (i) the [decision maker](#) may ask any question and admit any evidence it thinks fit,
  - (ii) witnesses may be called, examined and cross-examined with the consent of the [decision maker](#), and
  - (iii) the applicant, [Approved Person](#) or [Dealer Member](#) and any witnesses may be required to give evidence under oath or affirmation.

#### **9410. Decisions**

- (1) Where an applicant, [Approved Person](#) or [Dealer Member](#) requests that an opportunity to be heard be conducted by exchange of written submissions, but fails to deliver submissions within the required time, the [decision maker](#) may make its decision on [Registration Staff's](#) recommendation and submissions without further notice or delay.

### **PART B – OPPORTUNITIES TO BE HEARD BY THE BOARD OF DIRECTORS**

#### **9411. Opportunities to be heard by the Board of Directors**

- (1) The procedures in sections 9412 through 9417 apply where an applicant has requested an opportunity to be heard by the Board of Directors in relation to an [application](#) for [Dealer Member](#) membership as set out in section 9205.
- (2) These procedures are intended to ensure that opportunities to be heard by the Board of Directors are handled in a way that ensures a fair hearing, without being unnecessarily formal.

#### **9412. Staff's Notice**

- (1) If [IIROC](#) staff recommends that the Board of Directors refuse to grant membership in [IIROC](#), or that terms and conditions be imposed on membership in [IIROC](#), [IIROC](#) staff must send a letter to the applicant giving notice of [IIROC](#) staff's recommendation and brief reasons for it.

#### **9413. Response of Applicant, Approved Person or Dealer Member**

- (1) If an applicant wishes to be heard before a decision is made on [IIROC](#) staff's recommendation, the applicant must inform [IIROC](#) staff in writing (a "Response").
- (2) A Response must be delivered within ten [business days](#) after receipt of [IIROC](#) staff's letter, or within such shorter period of time as set out in such letter.
- (3) If a Response is not delivered within the time set out in [IIROC](#) staff's letter, [IIROC](#) staff will send its recommendation to the Board of Directors for consideration.

#### **9414. Choice of Written Submissions or Appearance**

- (1) An opportunity to be heard will be conducted as an exchange of written submissions, unless an applicant or [IIROC](#) staff requests that the opportunity to be heard be conducted as an appearance
  - (i) in the presence of the Board of Directors,
  - (ii) by telephone conference, or
  - (iii) by other interactive electronic means acceptable to both [parties](#).
- (2) A request that an opportunity to be heard be conducted as an appearance must be made to the Board of Directors in writing, with a brief statement of the reasons for making the request, by delivering a copy of the request to [IIROC's](#) Corporate Secretary. The other [party](#) will be given an opportunity to object to the request before the Board of Directors decides whether to grant a request for an appearance.
- (3) The Board of Directors may also decide on its own initiative that the opportunity to be heard will be conducted as an appearance, in which case the Board of Directors must promptly inform the [parties](#) of its decision.

#### **9415. Exchange of Written Submissions**

- (1) This section describes the process to be followed if the opportunity to be heard is conducted by exchange of written submissions.
- (2) [IIROC](#) staff must provide the applicant with a written submission setting out the facts and law supporting [IIROC](#) staff's recommendation, which submission must be delivered to the applicant within ten [business days](#) after [IIROC](#) staff receives the applicant's Response.
- (3) An applicant must then provide [IIROC](#) staff with a written submission responding to staff's submission, to be delivered within ten [business days](#) after the applicant receives [IIROC](#) staff's submission.
- (4) Subject to agreement of the [parties](#) or a [decision](#) of the Board of Directors,
  - (i) there will only be one exchange of written submissions so that the Board of Directors may render a [decision](#) without unnecessary delay, and
  - (ii) where the [parties](#) agree to make further submissions or either of them requests that the Board of Directors allow further submissions, such agreement or request must be made within five [business days](#) after delivery of the applicant's submission under subsection 9415(3).
- (5) Unless an agreement or request is made under subsection 9415(4), [IIROC](#) staff's and the applicant's respective submission will be provided to the Board of Directors within five [business days](#) after the applicant's submission is delivered.
- (6) If an agreement or request is made under subsection 9415(4), the submissions of all [parties](#) will be provided to the Board of Directors when all submissions have been delivered or the time for their delivery has elapsed.

#### **9416. Appearance before the Board of Directors**

- (1) This section describes the process to be followed if the opportunity to be heard is conducted as an appearance.
- (2) An appearance before the Board of Directors will generally be an informal proceeding, and the [Rules of Procedure](#) do not apply.
- (3) At an appearance,
  - (i) the Board of Directors may ask any question and admit any evidence it thinks fit,

- (ii) witnesses may be called, examined and cross-examined with the consent of the Board of Directors, and
- (iii) the applicant and any witnesses may be required to give evidence under oath or affirmation.

**9417. Decisions**

- (1) Where an applicant requests that an opportunity to be heard be conducted by exchange of written submissions, but fails to deliver submissions within the required time, the Board of Directors may make its decision on [IIROC](#) staff's recommendation and submissions without further notice or delay.