
REPORT

March 2021

NAVIGATOR

Qualitative Research among Complainants

A Report to the Investment Industry Regulatory Organization of Canada (IIROC)

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About the Research

About the Research



Objectives



The Investment Industry Regulatory Organization of Canada (IIROC) sought to better understand the needs and expectations of complainants as it pertains to Complaints & Inquiries (C&I) – the department within IIROC responsible for intake and initial review of filed complaints.

Findings will be used to inform the communications, interactions and processes of this group going forward.

This was the first time research has been undertaken amongst IIROC complainants.

Qualitative Research Caution

The research conducted was qualitative in nature. As such, the results provide an indication of participants' views on the issues explored but cannot be generalized to the full population of complainants. Rather, the findings from this research provide themes and direction. The findings cannot be used to estimate the numeric proportion or number of individuals in the population who hold a particular opinion because they are not statistically projectable.

Methodology



Navigator completed a set of in-depth interviews (IDIs) among complainants.

The interviews were conducted over the telephone in the language of the complainants choice – either French or English.

The Ombudsman for Banking Services and Investments (OBSI) and the Alternative Dispute Resolution (ADR) Chambers both assisted IIROC with the recruit of complainants. Those who had filed an official complaint (claim in the case of ADR) within the past two years through either organization were contacted via email. The email contained a link to a landing page hosted by Navigator, and the complainant was provided the opportunity to voluntarily and confidentially opt-in to participating in the research by completing and submitting a short survey. The short survey asked several key questions including contact details.

The IDIs were completed from July 20 to November 13, 2020.



About the Participants

A total of 37 complainants participated. All complainants interviewed had filed a complaint about account(s) held with an IIROC regulated dealer (i.e., those with market based complaints were excluded from participating in this research).

In addition, one industry advocate provided feedback on the complaints process.

The sample of potential interviewees provided to Navigator almost exclusively included complainants who had filed a recent complaint (within the past two years), with the expectation that these complainants would be able to recall details about their experiences. As a result, all complainants dealt with C&I and some ended up dealing with Case Assessment. Very few proceeded to the enforcement stage, at which point complainants might have been further engaged in the investigatory process or provided witness testimony in a disciplinary hearing, if appropriate. None of these complainants had cases that resulted in an outcome that included the firm/advisor receiving disciplinary action.

Many of those who complained to IIROC mentioned having also dealt with OBSI at some point during the complaint process. The nature of those dealings varied: Some interviewees filed an official complaint with OBSI, others recalled contacting OBSI and being directed to IIROC. Some admitted they were unable to recall if OBSI was ever involved.

Complainants were interviewed from across the country (B.C., Alberta, the Prairie provinces, Ontario, Quebec and the Atlantic provinces). Level of investment sophistication and knowledge ranged from very low to very high. An almost equal mix of men and women participated.

Navigator strived to interview complainants of various ages, and those interviewed ranged in age from 18 to 75+ years of age. Seniors were over-represented (the majority of participants were 60+ years of age).



Executive Summary



Executive Summary

Introduction

The primary objective of this research study was to assess the experience of investors that dealt with the Complaints & Inquiries (C&I) team, with special attention paid to uncovering areas requiring improvement with respect to processes, interactions and communications. However, the scope of findings from this study extend beyond an assessment of C&I. Some interviewees found it challenging to distinguish between the C&I and Case Assessment departments of IIROC. Some were able to make this distinction, but chose to share details and opinions regarding their entire experience with IIROC. Consequently, the complainants' evaluation of IIROC's complaint process was based on the entire experience – from intake to receipt of the concluding communication.

In the end, the in-depth interviews produced rich insights regarding, among other things, the expectations of complainants and perceptions of IIROC's role.



Executive Summary

Intake and the C&I Team

This summary starts with a review of the feedback related specifically to areas of the C&I team's key responsibility: intake and initial review of the complaint.

- Feedback underscores a lack of awareness about how the industry is regulated, and confusion between IIROC and other regulatory bodies, especially OBSI. Many interviewees knew little or nothing about IIROC, prior to complaining. Despite the lack of awareness of IIROC, complainants find their way to the regulator – often directed to IIROC by their firm/advisor.
- Many interviewees used the 'file a complaint' form on IIROC's website. The form was found to be straightforward and easy to use.
- Feedback suggests the first interaction with IIROC often takes the form of a telephone conversation with C&I. This initial interaction usually occurs in a timely manner, and it tends to be positively received. For the most part, feedback from the IDIs suggests the C&I team is viewed by complainants to be a group of knowledgeable, compassionate professionals.
- Overall, the research suggests that, when conversing with complainants by telephone, as part of the intake process, C&I staff are helpful, take their time, listen attentively, answer questions, and provide information about IIROC's role and the limitations of that role (i.e., IIROC can not provide financial compensation). While there were exceptions, the initial telephone call was valued by interviewees as an opportunity to be heard and share their experiences, and it was felt to provide a sense of relief and satisfaction.



Executive Summary

Despite the positive interactions at intake with C&I, many interviewees expressed a lack of satisfaction with IIROC and the final outcome of the complaint process. Recall that none of those interviewed proceeded beyond case assessment – a factor that very likely contributes to this pervasive dissatisfaction.

What complainants would deem to be an ideal experience:

Based on feedback from these IDIs, what complainants ideally want is to be heard and have their case assessed by a regulatory body acting as an impartial, knowledgeable, and compassionate third party.

There is an expectation that the regulator should be performing the function of adjudicator: an optimal ‘investigation’ would mean the regulator hears arguments and collects input from both parties, and then makes a fair and reasonable judgement about whether there has been some form of wrongdoing. Feedback suggests ‘fair and reasonable’ means IIROC will consider the context of the situation and factors beyond whether the ‘rules were broken’ (i.e., the assessment would take into consideration the nature of the relationship between the advisor and investor and the knowledge level of the investor).



Executive Summary

How complainants experience the process

Feedback suggests complainants believe that the two main functions of IIROC – to investigate and discipline – are relevant. This truly is what they want IIROC to do – to investigate and provide discipline. Further, these two roles are being effectively communicated by C&I during the intake process, on IIROC’s website and in IIROC’s brochures. However, a number of complainants in this study questioned the extent to which IIROC is fulfilling these roles. Factors contributing to this perspective:

- Complainants are not informed about how IIROC arrived at this decision, or the reasons why this conclusion was made. What kind of investigation was undertaken? What led IIROC to conclude that there is insufficient evidence of a rule breach? Without answers to these questions, some participants were left to conclude that the investigation itself must have been inadequate.
- To understand the reason why complainants feel let down by the outcome, it is important to understand the mindset of complainants going into the process. Those filing a complaint generally do so because they believe whole heartedly that they have been wronged. They expect that IIROC’s investigation will confirm this assumption. What complainants take-away from IIROC’s response is, “we investigated and have found no wrong-doing or evidence of a rule breach”. The response does not align with their own perceptions, and it tends to elicit feelings of anger, disappointment and resentment.
- Typically, IIROC speaks with the complainant via telephone to discuss the final outcome verbally, prior to issuing a written letter/email. Still, despite the preceding telephone call, some interviewees felt the final letter/email to be cold and harsh.



Executive Summary

In short, complainant expectations are not met because they exceed what can be delivered within the limitations of IIROC's mandate: to perform a review and make a decision based solely on regulatory considerations.

As a result, some complainants expressed doubts about the value of filing a complaint. The experience was described as deflating, painful and 'a waste of time'. The undesirable outcome led a number of complainants to question IIROC's objectivity and the extent to which a self-regulated organization can be unbiased.

In some ways, the positive interactions with C&I staff may be working to raise the expectations of complainants. During the intake process, C&I staff ask probing questions of the complainant to obtain additional details and better understand the issue. Their level of engagement, coupled with their empathetic demeanor left a number of interviewees feeling encouraged and hopeful.



Executive Summary

Financial Compensation and Disgorgement

Some complainants, but not all, were seeking an outcome that would result in financial compensation. That is not to necessarily imply that they were expecting the outlay of funds to come directly from IIROC. Rightly or wrongly, what most complainants were expecting is for a regulatory body to (1) provide counsel as to how much compensation would be reasonable to expect and the reasons for that assessment, and (2) assist complainants by acting as a mediator or by negotiating on their behalf, to obtain compensation from the alleged wrong-doing firm/advisor.

Interviewees expressed mixed views regarding disgorgement: some complainants would prefer a process whereby the regulator facilitates the compensation process between firm/advisor and complainants, as opposed to taking responsibility for the collection and distribution of it. Still, some feel returning disgorged funds to complainants might increase the perceived strength of IIROC.



Recommendations



Recommendations

Underscore to investors the value of filing a complaint with IIROC. It goes without saying that IIROC wants investors to continue to come forward with complaints. Even when disciplinary action is not taken, the complaint process allows IIROC to identify systemic issues with firms and/or advisors. Repeated reports about the same advisor/firm acts as an indicator of potential breaches and misconduct. However, there are limitations imposed on IIROC which can prevent the regulator from meeting the 'ideal' expectations of complainants regarding the nature of the investigation. Decisions must be made solely on the basis of available evidence. Given such limitations, it is important that investors are better made aware of the value in complaining. What is in it for them? They need to feel it is a worthwhile exercise.

- If IIROC were to offer **disgorged funds**, doing so may help to elevate the 'WIIFM' (What's in it for me) among complainants. However, disgorgement has its limitations, as some will not qualify to receive these funds, and this might further exasperate these complainants.
- Two of the main reasons for complaining are a desire to see the firm/advisor disciplined and to prevent the issue from happening again. **IIROC should underscore in its communications that all complaints are kept on file and considered in the future.** Inform complainants that IIROC reviews past complaints and looks for patterns that help them identify systemic issues. The communication could state that, in the event IIROC receives repeated complaints about a firm/advisor, it will be an indication that disciplinary action may be warranted.



Recommendations

Increase transparency about the investigation. At the conclusion of the investigation, complainants want to be provided with more information about the process (i.e., what steps were taken). Further, complainants would like greater transparency about the reasons for IIROC's decision. Any legal limitations related to what information can and cannot be disclosed at the conclusion of an investigation was not discussed in these interviews.

Continue to communicate and educate investors about the meaning of self-regulation – that it comes with oversight and includes a public interest mandate, and all firms and advisors are required to be registered with IIROC (i.e., their participation in IIROC and the process of addressing investor complainants is not optional).

Use of the phrase 'filing a complaint' at the point of intake was examined in this research. Complainants tended to understand 'filing a complaint' as they are familiar with this terminology. However, IIROC should consider changing the language to one of the options tested (i.e., 'reporting misconduct' or 'reporting concerns'), as these phrases were perceived by interviewees to better align with the experience.

Feedback underscores how much investors appreciate assistance in navigating the regulatory environment. It is recommended that C&I **continue to play a triage role**: explain the mandates of various regulators and, most importantly, inform complainants about which regulator should be contacted based on their desired outcome (e.g., if you are seeking compensation, consider contacting one of the following regulators...).

- Potentially this could be illustrated through scenarios (e.g., Sally is faced with the following situation. Describe it briefly and then suggest a course of action.)



Recommendations

This study did not set out to obtain specific feedback regarding experiences with **IIROC's arbitration program**. Nonetheless, a few participants expressed some confusion because the name of this program implies IIROC will provide arbitration. Feedback suggests the name of this program can mislead some to conclude that, as part of the complaint process, IIROC can in fact provide arbitration services. However, it is a stand-alone program (complainants are not handed off to this program in the same way they are passed on from C&I to Case Assessment). As such, an alternative name (one that does not include 'IIROC' in the title) might help mitigate any misperceptions.

Consider implementing an exit survey so that feedback is collected from each complainant at the conclusion of their dealings with IIROC. As mentioned in the methodology, this research was specifically undertaken among those who filed a complaint within the past two years. As such, very few of the interviewees had proceeded to the enforcement stage. An exit survey would allow IIROC to quantify levels of satisfaction across the entire body of complainants.



DETAILED FINDINGS:

Awareness of IIROC and How Complainants Know to Contact IIROC



Awareness of How the Industry is Regulated

Investors lack understanding about how the industry is regulated.

- Before submitting an official complaint to IIROC, most interviewees seemed to have little to no understanding of how the industry is regulated. Prior to complaining, they generally assumed that the industry is somehow regulated by an organization or body of some kind, but they were unable to name the regulator.
- In fact, for many, the process of complaining was a learning experience. By the end of it, some complainants seemed to have a slightly better grasp of the regulatory bodies in the industry. There were some, however, who even after going through the complaints process still seemed confused about how the industry is regulated.
- Feedback suggests some believe the government is at least partially responsible for regulation of the industry, or that IIROC itself is a government run organization.
- In discovering for themselves that IIROC is funded by its members, a few complainants expressed concern about the ability of a self-regulatory body to objectively regulate its members.



Awareness of IIROC and How Complainants Know to Contact IIROC

Most complainants did not know of IIROC before experiencing the wrongdoing.

- For most interviewees, the desire/need to file a complaint was what first introduced them to IIROC.
- Most interviewees did not complain about their lack of prior awareness of IIROC – they did not see it to be an issue. Still, feedback suggests the existence of multiple regulators and the lack of clarity over the roles of each leads to confusion, unnecessary time and effort by investors, and delays in filing the complaint.
- Some interviewees ended up filing a complaint with multiple regulators at the same time. Others chose a single path and were then instructed to pursue a different course of action (e.g., they may have first gone to OBSI and then OBSI instructed them to go to IIROC).



Awareness of IIROC and How Complainants Know to Contact IIROC

Usually, when faced with an issue, first point of contact is the firm and/or the advisor.

- Most complainants explained that they first attempted to sort out the issue directly with their firm/advisor - at least on an informal basis. Sometimes, to avoid an uncomfortable discussion with the alleged wrong-doing advisor, the complainant reached out to their advisor's "manager", a senior individual at the firm, or the compliance department of the firm.
- Some complainants, but not all, ended up filing a formal complaint with the firm where the alleged wrong-doing occurred. Among those who did file a formal complaint with their firm, most reported that they received a written response which included IIROC literature (i.e., a brochure) and the firm pointed out that investors can pursue their complaint through IIROC.
- When informed by the firm/advisor to contact IIROC, some went online to seek out additional information about IIROC, often specifically visiting IIROC's website. Some consulted the IIROC brochure(s). During this process, complainants reported they were trying to inform themselves about IIROC's role and how to file a complaint.



Awareness of IIROC and How Complainants Know to Contact IIROC

Those who were not directed to IIROC by their advisor/firm, learned about IIROC some other way.

- Among those who did not hear about IIROC from their firm/advisor, many explained that they assumed there must be a consumer group, independent regulatory body or government organization that takes complaints. Uncertain about how to complain and what organization to contact...
 - Many complainants reported that they went online to conduct an internet search – some used the search engine to query ‘how to complain about an advisor or investment’, while others went to the website of their advisory firm.
 - Some looked to their statements and found reference to IIROC and/or noticed the IIROC logo.
 - Less commonly, complainants cited looking through their personal paper-based files, and in the process of doing so happening upon an IIROC brochure. Complainants are not always certain about where or when they received the brochure.
 - A few mentioned that, in sharing their frustrations and their story with friends and family, their personal contacts directed them to IIROC.
- It is through this search process that the interviewees ended up on IIROC’s website and most then submitted a complaint through IIROC’s online portal.



DETAILED FINDINGS:

Confusion with Other Regulatory Bodies in the Investment Industry



Confusion with Other Regulatory Bodies in the Investment Industry

Ombudsman for Banking Services and Investments (OBSI)

- **Complainant feedback suggests there is considerable confusion among investors between IIROC and OBSI** and the roles and responsibilities of these two organizations.
- A number of complainants were not sure what to expect from either OBSI or IIROC or which of the two would be more appropriate to contact, and so they reached out to both organizations. Some reached out to OBSI first and then IIROC and some first contacted IIROC. Some were unable to say which of the two bodies they contacted first.
- Feedback suggests that often it is only through the process of complaining that investors gain some understanding – albeit limited - of the difference between OBSI and IIROC.
- Among interviewees who filed a complaint with both IIROC and OBSI, some expressed a lack of understanding about how these two bodies differ. Some seemed to recognize that they differ with respect to the ability to financially compensate complainants, but beyond that, these interviewees were unable to distinguish between the roles and responsibilities of IIROC and OBSI.



Confusion with Other Regulatory Bodies in the Investment Industry

Provincial Securities Commission

- Only a few complainants contacted a securities commission to try and register their complaint.
- The Securities Commission was rarely mentioned in the IDIs on an unaided basis. When complainants were asked about whether they reached out to the Securities Commission, some responded with confusion about the commission's role and asked if they should have gone that route – further underscoring the lack of understanding about the various regulators in the industry and their roles.

The Better Business Bureau

- One complainant was so confused about what to do that she first reached out to the Better Business Bureau (BBB). She had some familiarity and past experience with the BBB, and while she assumed they might advise her to contact another body, she felt it would be a good place to start.



Confusion with Other Regulatory Bodies in the Investment Industry

Mutual Fund Dealers Association (MFDA)

- In recruiting participants for this study, the aim was to interview those who had filed an official complaint with IIROC. For that reason, the complainants interviewed were dealing with an IIROC regulated firm. With the exception of those who deal with a discount brokerage (and therefore do not have an advisor), almost all of the interviewees have a relationship with an IIROC licensed advisor. Advisors can only be licensed by either IIROC or the MFDA, not both.
- Therefore, it is perhaps not surprising that not a single complainant mentioned the MFDA or cited contacting the MFDA either before or after reaching out to IIROC.

A Potential Vacuum in the Industry's Ability to Address the Needs of those with Service Complaints

Feedback suggests some complaints go unaddressed because they don't fall within the mandate of any of the organizations regulating the investment industry.

- For a few interviewees, the nature of their complaint was deemed by C&I to be entirely related to customer service. These complainants were informed by IIROC that customer service complaints are out of scope (i.e., IIROC does not regulate customer service). In these situations, at the conclusion of their interactions with IIROC, feedback suggests the complainant is directed to take up the matter with their firm/advisor, and this response leaves them feeling discouraged, frustrated and disappointed. There seem to be a couple of drivers behind these sentiments:
 - Wealth management and financial planning is a relationship-based service. How the industry makes the distinction between the provision of 'advice' and 'customer service' is unclear and not well understood among some investors.
 - Feedback suggests complainants want to be able to vent about customer service issues to a third party rather than their firm/advisor, for reasons that include fear of retribution, concerns about being 'fired' by the firm or harming a trust-based relationship or simply a desire to avoid an uncomfortable conversation. In some cases, complainants might first confront their firm or advisor in an effort to resolve the issue, without success, and then turn to IIROC in the hope that a regulator might be able to intervene or assist in some way.
- One complainant, recruited through OBSI, explained that C&I determined through initial telephone conversations and emails with her that she had experienced a customer service issue, and as such, it was not within IIROC's mandate. She was discouraged from filing an official complaint. She had already pursued the issue with her firm, and based on IIROC's response, was left feeling uncertain about where to turn for help.



DETAILED FINDINGS:

Communications and Touchpoints with IIROC

How Complainants Initially Reached Out to IIROC



- Most interviewees initially reached out to IIROC in one of three ways: via email, by telephone, or by completing and submitting the 'file a complaint' form on IIROC's website.
- Most of those who used the form on IIROC's website felt it to be straight forward, easy to understand and complete.
- Most complainants did not know the name of the department of IIROC they initially contacted. Some learned of the department's name through their dealings with IIROC. When prompted, some, but not all, recognized the department name, 'Complaints and Inquiries'.
- Some of those interviewed ended up proceeding to Case Assessment. Regardless of whether these complainants knew the official names of 'C&I' or 'Case Assessment', most understood that they were being transferred to a different department or group within IIROC.
- For some, their complaint was filed over a year ago. They were able to recall bits and pieces but were often uncertain about the order of events.

The Initial Telephone Interaction with IIROC



Most complainants used positive words to describe their telephone interactions with C&I.

listen
 considerate
 respectful helpful
 professional polite
 pleasant
 cooperative
 empathetic
 not rushed kind
 commiserated with me

- Many complainants indicated that their interactions with IIROC were a combination of email exchanges and telephone calls.
- For many, following the submission of their formal complaint, **the first interaction with IIROC was over the telephone with C&I.**
- Generally, these telephone interchanges were viewed positively. Feedback suggests the situations faced by complainants tend to be complex. Interviewees reported that the telephone conversation with C&I allowed them to share their full story in their own words, to ask questions, and feel listened to.
- Most interviewees seemed to believe C&I representatives are knowledgeable. Only among interviewees with significantly greater investment sophistication was the view expressed that C&I staff at IIROC lack investment knowledge.

Interactions with IIROC Staff

Complainants often interacted with more than one staff member at IIROC, but lack of a single point of contact was not considered germane to the experience.

- When asked who specifically at IIROC they were dealing with, some complainants were able to cite a specific person's name (i.e., a staff member of IIROC), but most were unable to recall the name of the department. It was often only through discussion and some probing that the interviewer could determine how far along the complainant went within IIROC. For instance, the complainant might say, "*after speaking with someone, I was handed off to Case Assessment*". At times, the complainant might reference the staff member's title (i.e., he's a Case Assessment officer) or contents of an email that specified the department.
- Many complainants mentioned dealing with more than one individual at IIROC. However, feedback suggests assigning a main point of contact would be considered immaterial to complainants. Very few complainants expressed a desire for a single point of contact.
- However, feedback reveals that the hand-off to the Case Assessment department could be improved. Some complainants indicated that the transition to another staff member was not always communicated to the complainant in advance.

Awareness and Receipt of IIROC Brochures and Pamphlets



- When prompted about IIROC brochures and pamphlets, some interviewees said they could recall receiving one or two pieces at some point during the complaint process. Some mentioned that they received brochure(s) directly from IIROC after filing their complaint. Others recalled receiving it from their firm/advisor.
- Most of those who complained officially to their advisor/firm said they received an official response that included mention of IIROC and/or the provision of an IIROC brochure accompanied the advisor's/firm's written response.
 - Some referred to a hard copy brochure and others mentioned it was sent in PDF form as an email attachment.
- When probed about whether complainants could recall receiving a brochure or literature about IIROC from the firm/advisor during the account opening process or at the outset of the relationship, most were uncertain and could not recall in detail what they received at that time.

Perceived Value of IIROC Brochures and Pamphlets



- When investors need to make a complaint, in trying to determine an appropriate course of action and educate themselves about the complaint process, feedback suggests that complainants typically (1) take direction from their firm/advisor, (2) conduct an online search and/or visit IIROC's website, (3) consult with friends or family and/or (4) look to their statements for direction about what to do. While most interviewees did not intentionally seek out brochures during this process, several came across at least one of these IIROC brochures in their explorations.
- Brochures were appreciated by complainants for the following reasons:
 - They act to reinforce IIROC's name and role.
 - Some complainants seemed to take comfort in having a concise summary of key information about the complaint process at their finger tips, including important issues to consider (e.g., deadlines) when filing a complaint.
 - To some extent, these brochures help to triage the complainant by providing an overview of the other organizations to consider.
 - They provide a readily accessible and an abridged summary of the information on the website.
 - Some interviewees seemed to get a sense of reassurance from the brochures that they had taken the right step in filing a complaint with IIROC.
- A number of complainants were able to recall having seen one or both of these IIROC brochures, but indicated they did not read them. Among complainants who reviewed the brochures, they were largely perceived to be clear and understandable.



Impressions of Descriptions: ‘Filing a Complaint’ versus ‘Reporting Misconduct’ or ‘Reporting Concerns’

Read by the Interviewer

The IIROC website makes reference to ‘filing a complaint’. Overall, based on your experiences and understanding of IIROC’s role, is ‘filing a complaint’ clear and accurate? Would it be better if they worded it as ‘reporting misconduct’ or ‘reporting concerns’? **Why/why not?**

Most interviewees seemed to favour “filing a complaint”, although using the alternative phrases might better reflect the experience of complainants.

Filing a Complaint

- ✓ The phrase ‘filing a complaint’ was perceived to be clear.
- ✓ It was perceived to accurately describe what the complainant wishes to do. The terminology seems to reflect what is going through their minds (i.e., I want to make a complaint) so in that way, it is using their language.
- ✓ It was viewed as sounding somewhat “formal”, which adds credibility to the process.
- ✓ Further, the phrase suggested to complainants that IIROC will be obligated to investigate and provide a response.
- ✓ Some complainants sensed from this wording that their submission will be actioned – that it is more likely to result in some form of investigation/discipline.
- ✓ It was mentioned that filing a complaint sounds broader – it covers more issues than ‘misconduct’ or ‘concerns’.
- ✓ Feedback suggests it sounds more powerful, and that it will result in some form of resolution. It better reflects what complainants wish to achieve through the process of complaining.

Reporting Misconduct/Reporting Concerns

- ✓ These phrases are considered less strong and less official. For some, who were disappointed by IIROC’s response and the outcome of the complaint process, this terminology better reflects the outcome they experienced.

Language Considerations



- A few of the complainants interviewed did not consider English or French to be their first language. They seemed to accept that communications with IIROC would occur in English or French. They did not view this as problematic.
- In fact, feedback suggests that written communications should be in English or French as this implies the communication is 'official'.
- However, it was suggested that verbal conversations with IIROC staff should ideally be conducted in the complainant's native tongue. Still, the complainants interviewed seem to understand it might be challenging for IIROC to employ staff that are not only educated and knowledgeable in the area of investments, but also speak languages other than English and French.



DETAILED FINDINGS:

Complainant Expectations and Views Regarding the Outcome

Views Regarding How IIROC is Performing Relative to their Expectations



- Expectation of many complainants
- ✓ Being met by IIROC

- **Opportunity to be heard:** Feedback suggests the opportunity to be heard is the most common expectation among complainants. In fact, a few complainants did not have expectations going into the process beyond a desire to share their experience. IIROC is felt to be meeting this expectation. Providing complainants with an opportunity to be heard seems to be a perceived strength of IIROC.

- Expectation of many complainants
- ✗ Perception among many that IIROC is not meeting this expectation

- **Acknowledgement of wrong-doing and disciplining Firm/Advisor:** In addition to wanting an opportunity to be heard, the most frequently cited reasons for complaining to IIROC were (1) acknowledgement from a third-party that the complainant had been wronged and (2) a desire to see the wrong-doing firm/advisor held accountable and disciplined for their actions. When probed, some complainants also noted they hoped their act of complaining would prevent other investors from being harmed in the future. On these two items, IIROC is not perceived to be meeting these expectations.

- Expectation of some complainants
- ✗ IIROC is not meeting this expectation

- **Financial Compensation:** Compensation is currently outside of IIROC's mandate. Some interviewees, but not all, were seeking financial compensation from IIROC. Some also sought compensation from OBSI at some point during the process. Certainly, the desire for compensation seems to be less common than the expectations mentioned above.
 - Certainly, there seemed to be a desire and appreciation for advice related to compensation (i.e., Should I pursue compensation? How much should I expect?).
 - Some reported wanting to be compensated for wrongful trades (e.g., to make up for the lost opportunity due to a trade not being processed). Others explained they wanted to be financially compensated for fees that they were not privy to, or fees that were applied to transactions they did not approve.

Views Regarding How IIROC is Performing Relative to their Expectations (cont'd)



- Expectation among few complainants
- ✓ Being met by IIROC

- **Education:** While very few complainants were seeking to be educated, some mentioned that they did find the process educational. While it wasn't an expected outcome, they reported that they learned something from the experience of filing a complaint with IIROC.
- **Advice about pursuing the issue further, via other channels:** Feedback suggests that few investors complain to IIROC as a means of seeking guidance about whether it would be worthwhile to pursue the issue further (with the firm or with a lawyer). It should be noted, however, that several complainants found this to be one of the key benefits of undertaking the complaint process with IIROC. Interactions with IIROC – especially the initial telephone conversation with C&I – were deemed to be helpful in communicating critical deadlines, explaining the role of IIROC and providing the complainant with other options for consideration (e.g., reaching out to OBSI).

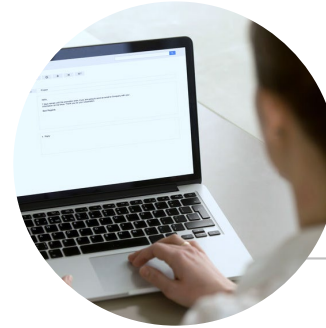
- Expectation among very few complainants
- ✗ IIROC is not doing this

- **Reversing/Fixing a Trade/Transaction:** This was mentioned by some as an expectation. It seemed that those with more investment knowledge understood that this would not be feasible or desirable. Nonetheless, some wished to be financially compensated for an opportunity loss due to a trade being processed incorrectly or not at all.
- **Revenge:** Rarely did complainants seem to act out of vengeance. They expressed that they were not seeking revenge or hoping to get an advisor fired. Rather, most wanted the firm/advisor disciplined and set straight to ensure the alleged wrong-doing is not repeated.

Feedback reveals that fear of retaliation might be a potential barrier to filing a complaint. Some investors worried that the act of complaining would sour the relationship with their firm/advisor. One complainant sought reassurance from IIROC and OBSI that the firm/advisor would not be in a position to retaliate as a result of the complaint being filed. The complainant felt that neither IIROC nor OBSI provided such reassurance.

The Concluding Email from IIROC

- At the conclusion of the complaint process, interviewees recalled receiving a final email communication from IIROC. Many complainants reported having a negative impression of this email communication. Generally, it seemed to indicate that IIROC had concluded its investigation and would not be pursuing any disciplinary action. It left complainants feeling deflated, disappointed, hurt, and angry.
- It is standard practice at IIROC to phone the complainant before sending the closing letter. If the complainant can't be reached by phone, or does not return the call, the closing letter is sent without a telephone discussion. Several interviewees indicated they did not speak with IIROC before receiving the concluding email, and these complainants said they would have preferred hearing the bad news via a telephone call as opposed to an email communication received at the conclusion of the process.
- Some complainants felt that the telephone calls they had with IIROC (during the process and prior to receipt of the concluding email) were helpful and educational, and they appreciated that these calls felt like a two-way conversation.
- One interviewee mentioned that IIROC 'cut and pasted' some content from the complainant's initial filing into the concluding email/letter. The complainant felt this practice suggested that IIROC's response was hurried and that perhaps IIROC undertook a less than thorough investigation.



Negative words tended to be used to describe the concluding email correspondence from IIROC.

official cold
 a form letter boilerplate
 flat dismissive
 lacking empathy
 Hastily done
 cookie cutter

Level of Satisfaction with the Outcome



By way of context, all complainants dealt with C&I. While some of those interviewed ended up dealing with Case Assessment, very few proceeded to the enforcement stage (at which point complainants might have been further engaged in the process by participating in an investigation or possibly providing witness testimony in a disciplinary hearing).

- Interviewees reported receiving a concluding letter/email from IIROC. While most were unable to recall the precise wording and details of the letter/email, in their own words they recalled it saying that the firm/advisor had not broken any rules and that the issue would not be pursued further by IIROC.
- The explanation in the official concluding letter/email was generally perceived to be clear and understandable but lacking sufficient detail about the process undertaken and factors considered as part of the investigation.
- A common pain point expressed by complainants was that IIROC did not explain the reasons for the outcome – how did IIROC come to the conclusion that the firm/advisor had not engaged in any wrong-doing? A lack of information was provided around how the alleged wrong-doing was investigated: what steps were taken by IIROC.
- Some complainants seemed to get their hopes up if the investigation took a long time. They assumed IIROC was uncovering incriminating evidence to help build a case against the firm/advisor. The complainant was very disappointed, and often angry, if IIROC came back with a decision against pursuing any disciplinary action.

Level of Satisfaction with the Outcome

Those dissatisfied with the outcome of their complaint were often left with a negative impression of IIROC's role and its fulfilment of that role.

- Many complainants expressed dissatisfaction with the outcome and with IIROC.
- Due to the unsatisfactory nature of the outcome, many complainants were left with a negative impression of IIROC, often expressing one or more of the following perceptions:
 - a) IIROC did not perform a thorough investigation and their concern was not adequately considered.
 - b) IIROC lacks the power to act, especially when it comes to compensating investors.
 - c) The rules are too lenient and/or favour the advisors/firms.
 - d) IIROC relies too heavily on the 'letter of the law' without applying discretion.
- A number of complainants commented that the process of filing a complaint through IIROC was a waste of their time.



DETAILED FINDINGS:

Compensation and Use of Disgorged Funds



How Complainants Sought Out Compensation

Consulting with OBSI seems to be the most common means of seeking compensation.

- Both OBSI and IIROC's Arbitration Program are presented by IIROC as options to those seeking compensation. Feedback from the interviews suggests that complainants more often pursue compensation through OBSI than through IIROC's Arbitration Program.
- Some complainants got to OBSI through their firm and/or an advisor, while others shared that IIROC advised them to reach out to OBSI. Some complainants recalled being referred to OBSI by IIROC over the phone and some noted that OBSI was mentioned as a potential option in written correspondence from IIROC.
- Several interviewees recalled mention of the IIROC Arbitration Program within the final written letter from IIROC. A few complainants had the response letter from IIROC which referred to this option. The letter generally started out by summarizing the issue raised by the complainant, and then reporting that IIROC will not be pursuing formal disciplinary action. It then outlined potential avenues in which the complainant could pursue financial compensation. The options included OBSI, the IIROC Arbitration Program offered through ADR Chambers, and obtaining a lawyer.
- A few complainants noted a preference for OBSI over other options because they view it as a less costly means of pursuing financial compensation (i.e., using a lawyer).
- Several of those who dealt with OBSI noted that the organization helped them determine how much compensation would be fair and reasonable to expect, and how to negotiate with the firms for financial compensation. Both of these functions regarding compensation seemed to be extremely valued.
- Outcomes with OBSI varied, and some noted that the amount of compensation received was less than what they had hoped for. As well, a number of complainants questioned the extent to which OBSI can be objective in this role. Still, complainants appreciated this role of providing advice and assistance related to financial compensation.



Reasons for Not Seeking Out Compensation

There seem to have been several reasons why financial compensation is not always pursued by complainants:

1. Fees and the feeling that the costs involved would outweigh the potential benefits. One interviewee explained that he understood from a letter received by IIROC that ADR Chambers is engaged by IIROC to administer its Arbitration Program. The letter mentioned that using ADR Chambers is not free (although it is often less than going to court).
2. The view that the firms and advisors would have the upper hand at court due to their size, resources and financial capacity to “hire the best lawyers”.
3. Most complainants mentioned feeling drained and exhausted by the process of complaining. They wanted to put it behind them. Even when they did not achieve a desirable outcome, they wished to move on. Many explained they do not have the stamina or perseverance to pursue the issue further.
4. Many reported feeling discouraged by the responses/outcomes achieved to date. There was a belief that the response would be similar and equally deflating if pursued through an alternative channel.
5. A fifth reason, although less commonly cited, was the perception that too much time had passed. Interviewees noted that the correspondence from IIROC explains that there are limitations imposed by law that may limit the time complainants have to pursue these alternative options.

Potential Barriers to Using the IIROC Arbitration Program



- While very few interviewees mentioned the IIROC Arbitration Program, feedback among this small group suggests that the inclusion of 'IIROC' in the name of the program might discourage some from using the service.
- **A number of complainants were confused as to how IIROC's Arbitration Program could be of help, based on their understanding of IIROC's role and the limitations of that role (i.e., IIROC can not provide financial compensation).**
 - One complainant recalled that IIROC had directed him to consider the IIROC Arbitration Program. He explained however that he chose instead to pursue compensation through OBSI because he believed – based on his understanding of their roles and mandates - that OBSI has more power than IIROC to order firms to pay compensation.
 - One interviewee noted that his official response letter from IIROC recommended he consider the IIROC Arbitration Program. This recommendation was a source of confusion for the complainant as it seemed to contradict other information in the letter that suggests the role of arbitration is outside of IIROC's mandate.



Use of Disgorged Funds

Mixed opinions were expressed about the use of disgorged funds.

PERCEIVED BENEFITS:

- The primary benefit of this proposed idea is that it would give IIROC more power or “teeth” to address complaints and make the role of IIROC more meaningful.
- There was also a view that it would be fairer to the complainant for IIROC to collect money from wrongdoers as opposed to putting the burden on the complainant to pursue compensation.
- It should be noted that some interviewees were not seeking compensation in filing their complaint. Even among these complainants, there was some inclination to support the proposed policy regarding disgorgement for one or both of the above benefits.

Read by the interviewer to all complainants interviewed

Today IIROC is not able to return any funds to complainants. IIROC understands just how important it is to harmed investors to get at least some of their money back. As such, they are exploring ways to help return some funds to investors who suffer financial loss at the hands of wrongdoers. IIROC is considering the possibility of returning disgorged funds to complainants who have been wronged, to make up for at least some of their losses. Disgorgement refers to any direct or indirect financial benefit, including ill-gotten profits, fees or commissions, collected from ‘wrong-doing’ advisors or firms through IIROC disciplinary proceedings.

In your opinion, is this a good idea? Why/why not?

Use of Disgorged Funds

Mixed opinions were expressed about the use of Disgorged Funds.

PERCEIVED DRAWBACKS:

- A number of interviewees expressed a belief that it is not fair to make IIROC responsible for compensating complainants. Rather, the onus should be on the wrongdoing firm/advisor to compensate the complainant. The thinking was that IIROC's role should be to assist complainants in getting funds from the wrong-doing firm/advisor (i.e., it should be IIROC that orders the broker to compensate the investor, rather than IIROC collecting and then passing on the money to the investor).
- Another concern expressed was that returning disgorged funds to wronged complainants might prevent some complainants from seeking out fuller compensation from the firm through other means: Complainants will simply settle for something – whatever is offered by IIROC – perhaps accepting less than they deserve, rather than pursuing the matter further through OBSI, litigation or some other means.
- In some cases, complainants reacted to the proposed policy with a lack of enthusiasm, realizing that they themselves would not qualify to receive any disgorged funds.

Read by the interviewer to all complainants interviewed

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In your opinion, is this a good idea? Why/why not?

Use of Disgorged Funds



A NOTE ABOUT THE CLARITY OF THE DESCRIPTION:

- The way in which the term ‘disgorgement’ was defined (any direct or indirect financial benefit, including ill-gotten profits, fees or commissions, collected from ‘wrong-doing’ advisors or firms through IIROC disciplinary proceedings) seemed to be generally understood by those interviewed. However, should IIROC decide to offer disgorged funds, communications should state that acceptance of disgorged funds will not disqualify complainants from seeking out or receiving other forms of compensation.
- The following phrase appears to have been somewhat problematic: **IIROC is considering the possibility of returning disgorged funds to complainants who have been wronged**. Feedback suggests this sentence might mislead some to incorrectly believe they qualify to receive disgorged funds. By way of explanation, the research revealed that complainants believe they have suffered wrong-doing – regardless of the outcome determined by IIROC. So, although some interviewees had been informed that the alleged wrong-doing firm/advisor would not be disciplined by IIROC, in hearing the description about disgorgement, some nonetheless assumed they would personally qualify for compensation.
- The description might be made clearer and more accurate if reworded. For example: **IIROC is considering the possibility of returning disgorged funds to complainants in cases where IIROC has determined that the complainant had been wronged**.

Read by the interviewer to all complainants interviewed

Today IIROC is not able to return any funds to complainants. IIROC understands just how important it is to harmed investors to get at least some of their money back. As such, they are exploring ways to help return some funds to investors who suffer financial loss at the hands of wrongdoers. IIROC is considering the possibility of returning disgorged funds to complainants who have been wronged, to make up for at least some of their losses. Disgorgement refers to any direct or indirect financial benefit, including ill-gotten profits, fees or commissions, collected from ‘wrong-doing’ advisors or firms through IIROC disciplinary proceedings.

In your opinion, is this a good idea? Why/why not?



DETAILED FINDINGS:

IIROC's Role and the Fulfilment of that Role



Awareness of IIROC's Role Prior to Filing a Complaint

As previously mentioned, prior to filing a complaint, understanding of IIROC and its role was very limited.

- Some complainants had not heard of IIROC prior to filing a complaint.
- Some explained that they reviewed IIROC's website to become more familiar with the organization and its role. Interviewees also cited reviewing IIROC brochures for this reason.
- Most often, interviewees cited learning about IIROC and its role during the complaint process (often through discussion with C&I and/or via written communication at the outset of their dealings with IIROC).
- Some remained unclear about IIROC's role even at the conclusion of the complaint process.

Read by the interviewer
to all complainants interviewed

IIROC investigates the complaints received to determine if the advisor/firm has broken their rules. If they find that the rules have been broken, they may take disciplinary action through the use of fines, suspension or permanent bans. As an investor, by complaining, you are helping IIROC fulfil these investigative and disciplinary roles. However, IIROC cannot provide compensation to investors or force advisors and/or firms to reimburse you.



Opinions Regarding Whether IIROC Fulfilled their Role

- Based on the description of IIROC's role, complainants seemed to understand that IIROC has two primary functions: to investigate and to discipline.
- Many complainants expressed feeling let down with regards to the fulfilment of one or both of these roles.
- **THE INVESTIGATIVE ROLE:** IIROC's decision to not pursue disciplinary action led many complainants to conclude that the investigation was not sufficiently thorough. Complainants were convinced they have been wronged. For IIROC to conclude otherwise made them feel their situation was not given adequate consideration.
- **THE DISCIPLINARY ROLE:** Very few of the interviewees had proceeded to the Enforcement stage, and therefore did not experience or witness the disciplinary role played by IIROC. This is likely a factor contributing to the view that IIROC is not fulfilling its disciplinary role. When informed by IIROC that there is not sufficient evidence to justify disciplinary action, some concluded that there must not be many rules, or that the rules are too lenient.
- **IIROC's final letter to the complainant does not offer any reason for concluding that disciplinary action will not be pursued. The lack of explanation was a pain point for complainants.**

Read by the interviewer
to all complainants interviewed

IIROC investigates the complaints received to determine if the advisor/firm has broken their rules. If they find that the rules have been broken, they may take disciplinary action through the use of fines, suspension or permanent bans. As an investor, by complaining, you are helping IIROC fulfil these investigative and disciplinary roles. However, IIROC cannot provide compensation to investors or force advisors and/or firms to reimburse you.



Opinions Regarding Whether IIROC Fulfilled their Role (Cont'd)

- IIROC's role, as described, is considered appropriate, clear and understandable.
- However, some complainants questioned, based on their personal experiences, IIROC's effectiveness in fulfilling the role as described.
- A few interviewees cited a desire to know more about the rules: what are they and which rules are enforced by IIROC. Feedback suggests complainants were looking for a process that is less all or nothing/black or white. There is a desire for IIROC to apply a greater degree of 'fairness' in assessing the situation.
- **ABSENCE OF A COMPENSATION ROLE:** Some complainants were disappointed to discover that IIROC can not provide financial compensation to investors. However, many interviewees seemed to have been informed about this limitation by C&I at the outset of the complaint process.
 - Further, some interviewees were not seeking compensation, or if they were, it was a lower priority for them. First and foremost, they wanted an investigation and were hoping the wrong-doing firm/advisor would be disciplined.
- **TRIAGING:** Feedback suggests that IIROC plays an additional role that some complainants find very valuable – the role of 'triaging' investors. Several complainants provided feedback suggesting that they found C&I helpful in providing instruction about what to do and in laying out the various options to consider.

Read by the interviewer
to all complainants interviewed

IIROC investigates the complaints received to determine if the advisor/firm has broken their rules. If they find that the rules have been broken, they may take disciplinary action through the use of fines, suspension or permanent bans. As an investor, by complaining, you are helping IIROC fulfil these investigative and disciplinary roles. However, IIROC cannot provide compensation to investors or force advisors and/or firms to reimburse you.



DETAILED FINDINGS:

Overall Assessment of the Process and IIROC's
Handling of the Complaint



How Complainants are Feeling During the Process

Below is a simplified representation of the process commonly experienced by complainants. Certainly, the experience varies from person to person. The process is more complex if the complainant was also dealing with OBSI, which may have occurred before, during or after their experience with IIROC. However, in its simplicity, it helps illustrate the range of feelings expressed by interviewees during the process.



Angered and distraught by the situation, they filed a complaint. The process was perceived to be easy enough, and they reported feeling productive and hopeful.

Many interviewees viewed this conversation positively. They felt listened to and validated. The conversation was encouraging.

During this time there may be one or more telephone conversations between IIROC and the complainant (e.g., to obtain additional information).

Most came away with an outcome they felt to be unsatisfactory. They were left feeling “deflated”, “angry”, “upset”, “hurt”, “disgusted” and “shocked”.

Being listened to with empathy and asked questions about the experience tended to give complainants hope.

Timing of the Process



- The time between submitting a formal complaint and receiving an initial response from IIROC was generally felt to be short (often only days or within a couple of weeks). Complainants were impressed by how quickly they were contacted by IIROC (typically by telephone) following their initial submission.
- Complainants reported that the time spent by IIROC to investigate the situation takes significantly longer – often one to three months. The length of time varied by complainant. Some felt the wait was too long, but most felt it was reasonable. Generally, it was understood and expected that investigating the situation takes time.
- Feedback suggests a long wait time can increase feelings of hope among complainants – based on the assumption that the longer the wait, the more likely it is that IIROC is undertaking a comprehensive investigation and perhaps uncovering some evidence of firm/advisor wrong-doing. A lengthy investigation that results in an unsatisfactory outcome for the complainant can lead to disappointment.

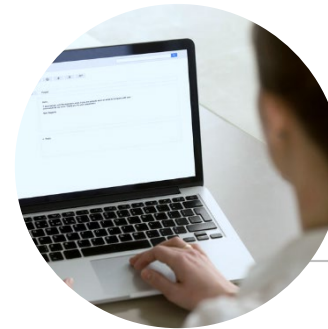
Initial Conversation Versus Concluding Correspondence

The disconnect between the initial conversation with C&I and the final outcome received via email is problematic and contributes to negative overall feelings about the experience with IIROC.



Most complainants used positive words to describe the telephone interactions with IIROC.

listen
 considerate
 respectful helpful
 professional polite
 pleasant
 cooperative
 empathetic
 not rushed kind
 commiserated with me



Negative words tended to be used to describe the concluding email correspondence from IIROC.

official
 a form letter
 cold boilerplate
 flat dismissive
 lacking empathy
 Hastily done
 cookie cutter

Words Used to Describe the Complaint Process



- Undesirable words and phrases were often used by complainants to describe the complaint process, such as: frustrating, exhausting, painful, stressful, unpleasant and uncomfortable.
- In fact, the reason often provided by complainants for not pursuing further action (i.e., seeking financial compensation through a lawyer or another regulatory body) related to feeling too exhausted and/or deflated by the process.
- A number of interviewees admitted to being unknowledgeable investors. Some of these complainants found the process intimidating.
- Some felt that the process of submitting an official complaint and going through the process provided a sense of completion or accomplishment – they did what they needed to do, and were glad to put it behind them and move on.

Advice Complainants Would Give to a Friend Experiencing a Similar Issue



- When asked to rate IIROC on a scale of 1 to 10, where 1 means completely dissatisfied and 10 means completely satisfied, scores for satisfaction with IIROC's handling of the complaint varied widely – from 1 to 10.
 - Some complainants offered two ratings: a high rating based on their interactions with C&I staff, expressing satisfaction with the initial telephone conversation with IIROC, and a low rating based on feeling disappointed with the outcome.
- What is telling about the overall evaluation of the experience is that a number of complainants would advise their friends not to bother filing a complaint with IIROC or to switch firms/advisors rather than complain. Lack of a satisfactory outcome was the primary reason for feeling this way. The outcome was perceived as not worth the time, effort and stress.
- A few interviewees said they would instruct their friends to go to the media with their story.
- Some mentioned they would advise their friends to become more investment savvy, knowledgeable and aware of the rules so they do not end up in a similar situation.

The Call for Greater Accountability to Investors



- There was a tendency for the complainants interviewed to feel they were at a disadvantage and powerless relative to firms and advisors.
- Several complainants questioned the objectivity of IIROC. During the complaint process, some complainants became aware of the fact that IIROC is a self-regulated organization. Among those who did, a number cited a degree of skepticism about IIROC's ability to objectively consider the complaints of investors. There was a belief expressed that IIROC's allegiance must be to the firms that financially support it.