

# IN-PERSON AND HYBRID HEARINGS PROTOCOL

(January 2023)

IN-PERSON and HYBRID HEARINGS.....	1
a) Hearing Format and Limits on Capacity .....	2
b) Vaccination.....	2
c) Enhanced Cleaning.....	3
d) Physical Distancing.....	3
e) Masks .....	3
f) Hand Sanitizing .....	3
g) Document Transmission .....	3

The health and safety of everyone involved in the New Self-Regulatory Organization of Canada (**New SRO**) hearings is paramount. As such, this protocol sets out the measures put in place to maintain a safe and healthy environment following the COVID-19 pandemic and directives to support the return to in-person hearings during this transition period. For more information on New SRO's practices for electronic proceedings, consult [Best Practices for Electronic Proceedings](#).

This protocol is based on the current federal and provincial guidelines and may change over time. Please read them carefully and note that preventive measures and directives could differ in some cities or provinces depending on the local guidelines and legislation in effect at the time of your hearing.

All individuals attending New SRO hearings in-person should remain mindful and respectful of their own health and safety as well as other individuals involved. If you are not feeling well or have symptoms that have been linked with COVID-19 or other illnesses, do not attend hearings in-person (see below for information on safe alternatives). All participants should be prepared to switch from an in-person to fully virtual or hybrid hearing format if necessary.

## IN-PERSON and HYBRID HEARINGS

New SRO has developed a framework of control measures that can be adapted to their offices and other (third-party) locations where hearings will be held (e.g., court reporters' offices, conference centres, hotels etc.) to support the safe restoration of in-person hearings in response to COVID-19 and ensure health and safety of all hearing participants as well as members of the community and the public.

Hearing participants in New SRO proceedings typically include Hearing Committee members (same as hearing panel members thereafter), administrative staff (including the National Hearing Officer (NHO) for hearings proceedings under the Investment Dealer and Partially Consolidated Rules and the Hearings Assistant for hearings proceeding under the Mutual Fund Dealer Rules), hearing registrars and court reporters), parties to the proceeding, witnesses and, if represented, their legal counsel. For the purposes of this document, hearing participants exclude observers, such as members of the public and the media.

In-person hearings will entail personal attendance of the parties, their witnesses and legal counsel (if

represented by a lawyer), in a physical hearing room, where the hearing will be held in the presence of a hearing panel.

Hybrid hearings are those in which some participants may attend in-person in the hearing room while others join remotely. Hearing rooms for in-person and hybrid hearings will be equipped with technology that permits the use of videoconferencing (e.g., Webex or another digital platform).

In all cases, a videoconferencing (Webex) link to a hearing may be used by:

1. a hearing participant who elects to participate remotely, or
2. any hearing participant who intended to attend the hearing in-person but, due to illness or some other circumstances, is unable to attend in-person and needs to switch to a remote appearance, and
3. until further notice, any observers, including members of the public and the media who wish to attend public hearings.

The following protocols apply when individuals attend in-person at either a fully in-person or a hybrid hearing.

#### a) Hearing Format and Limits on Capacity

It is anticipated that most of the ongoing matters and many new matters will proceed electronically in the future.

Until further notice, all initial appearances, prehearing conferences and settlement hearings will continue to proceed electronically.

For contested matters, hearings may be able to proceed either in-person, hybrid or electronically. The parties are encouraged to canvass the appropriate format among themselves and with their witnesses in advance of their hearing and advise the NHO or the Hearings Assistant and the hearing panel as early as possible, or, at the latest, at the first prehearing conference. Whether the hearing can proceed entirely in-person will depend on the circumstances of each case, including public health advisories at the time of the hearing, individual circumstances of other hearing participants, availability of hearing resources, rooms, equipment etc. In case of disagreement, the appropriate format of the hearing will be determined by a hearing panel pursuant to the Interim Rules: [Rule 8409](#) of Investment Dealer Rules and Partially Consolidated Rules and [Rules 1.5 and 5](#) of the Mutual Fund Dealer Rules of Procedure.

Until further notice, in-person attendances will be limited to the hearing participants, including hearing panel members, administrative staff, parties and their counsel, and witnesses giving oral testimony and their counsel.

All other individuals, including members of the public and media, will be able to observe public hearings remotely (via Webex). When it becomes feasible to do so, overflow rooms providing videoconferencing services may be arranged for public attendances as necessary.

These measures are temporary and may be revisited to reflect updated public health advisories, depending on the hearing location, hearing room's capacity and other factors.

#### b) Vaccination

As COVID-19 vaccination is strongly recommended by [Health Canada](#), all individuals attending in-person are encouraged to be vaccinated against COVID-19. Hearing Committees will maintain alignment with the current and future public health advisories as applicable.

With the help of technology used to facilitate the conduct of hearings (i.e., [Webex](#) and [Case Center](#)), individuals who are uncomfortable or unable to participate in-person will have the ability to join and participate in, or observe, the hearing via videoconference. Individuals should contact the NHO at [NHO@iirc.ca](mailto:NHO@iirc.ca) and the CSO at [hearings@mfd.ca](mailto:hearings@mfd.ca) for details on how to join the hearing electronically.

#### c) Enhanced Cleaning

Before each hearing, hearing rooms, waiting areas and breakout rooms will be disinfected using cleaning products that are effective at reducing the spread of bacteria and viruses. Enhanced cleaning means deep cleaning with stronger disinfectant cleaner consistent with the public health advisories. Enhanced cleaning of high-contact areas has also been implemented in New SRO's offices as appropriate. High-contact areas included door handles, handrails, elevators, push plates, light switches, washrooms, etc.

#### d) Physical Distancing

To the extent possible, the layout of each hearing room will ensure that safe physical distancing is achieved between hearing participants.

At the close of the hearing, administrative staff will invite all attendees to exit the room one-by-one in a manner that respects physical distancing. All personal belongings, stationery and any beverages consumed during the hearing should be removed from the hearing room.

#### e) Masks

In accordance with the public health guidance that indicates that face coverings are an effective method of source control and hearing participants are strongly encouraged to wear masks or face coverings that cover their nose, mouth, and chin in the hearing room, except when speaking, (e.g., hearing panel members presiding at the hearing and asking questions, a party or counsel making submissions, a witness giving oral testimony etc).

#### f) Hand Sanitizing

Hand sanitizers, wipes and non-medical masks will be made available for use as required at reception, counsel's tables, the witness stand etc.

#### g) Document Transmission

All documents should be exchanged by the parties and filed with the NHO or the CSO electronically prior to the hearing. During the hearing, documents will be presented, and exhibits will be marked electronically using [Case Center](#).

In the event physical documents need to be provided during the hearing, physical distancing guidelines should be followed, and hand sanitizers should be used before and after handling of the documents.