

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

AMENDMENTS TO RULES 20 AND 33 – ELIMINATION OF THE IIROC APPEAL PANEL

Rule 20.1

20.1 In this Rule:

"Decision-maker" means:

the person or body making the decision under the respective provision of Rule 20. The Decision-maker can be: Corporation Staff (20.18 Part 7 Rule 20, 20.24 Part 8 Rule 20); the District Council or a sub-committee of the District Council (20.18 and 20.20 Part 7 Rule 20, 20.24 and 20.25 Part 8 Rule 20); the Board of Directors; (20.21 Part 7 Rule 20), a Board Panel; (20.22 Part 7 Rule 20), a District Council Panel; (20.26 Part 8 Rule 20); and a Hearing Panel; ~~(20.13 Part 6 Rule 20); and an Appeal Panel; (20.51 Part 11 Rule 20).~~

"Panel" means:

a Hearing Panel; and a District Council Panel (20.26 Part 8 Rule 20) ~~and an Appeal Panel~~ ~~(20.51 Part 11 Rule 20).~~

Rule 20.19

20.19 Review Hearings

- (1) Corporation Staff or the Applicant may request a review of an approval decision by a Hearing Panel within ten business days after release of the decision.
- (2) If a review is not requested within ten business days after release of the decision, the approval decision becomes final.
- (3) No member of a District Council who has participated in a decision to refuse an application or impose conditions on an application, pursuant to Rule 20.18, shall participate on the Hearing Panel.
- (4) A review hearing held under this Part shall be held in accordance with the Corporation Practice and Procedure.
- (5) The Hearing Panel may:
 - (a) affirm the decision;
 - (b) quash the decision;
 - (c) vary or remove any terms and conditions imposed on approval;
 - (d) limit the ability to re-apply for approval for such period of time as it determines just and appropriate; and
 - (e) make any decision that could have been made by the District Council pursuant to Rule 20.18.

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- (6) ~~No appeal shall be available from the decision of the Hearing Panel.~~ A decision of the Hearing Panel is a decision for which no further review or appeal is provided in the Rules.

Rule 20.26

20.26 Review Hearings

- (1) The Applicant or Corporation Staff may apply for a review of the District Council decisions pursuant to Rule 20.24 or Rule 20.25 within ten business days after release of the decision.
- (2) If the Applicant does not request a review within the time period prescribed in subsection (1), the District Council decision to refuse the exemption request application or approve the exemption request application subject to terms and conditions, shall become final.
- (3) If Corporation Staff requests a review within the time period prescribed in subsection (1), the request for review shall operate as a stay from the District Council decision.
- (4) A review of a District Council decision shall be heard by a District Council Panel comprised of three members of the District Council. No member of a District Council who participated in the District Council decision shall sit on the District Council Panel.
- (5) The District Council Panel may:
 - (a) affirm the decision;
 - (b) quash the decision;
 - (c) vary or remove any terms and conditions imposed on an Applicant; and
 - (d) make any decision that could have been made by the District Council or a sub-committee of the District Council pursuant to Rule 20.24 and Rule 20.25.
- (6) ~~No appeal shall be available from the decision of the District Council Panel.~~ A decision of the District Council Panel is a decision for which no further review or appeal is provided in the Rules.

Rule 20.29

20.29 Review of Early Warning Level 2 Prohibitions

- (1) The Dealer Member may request a review of a Rule 20.28 order by a Hearing Panel within three business days after release of the decision.
- (2) If a request for review is made, the hearing shall be held as soon as reasonably possible and no later than twenty-one calendar days after the request for review, unless otherwise agreed by the parties.
- (3) If a Dealer Member does not request a review within the time period prescribed in subsection (1), the Rule 20.28 order becomes effective and final.
- (4) A Hearing Panel may:
 - (a) affirm the order;

- (b) quash the order; or
 - (c) vary or remove any prohibitions imposed on the Dealer Member; and
 - (d) make any decision that could have been made by the Corporation pursuant to Rule 20.28.
- (5) ~~No appeal shall be available from the decision of the Hearing Panel.~~ A decision of the Hearing Panel is a decision for which no further review or appeal is provided in the Rules.

Rule 20.37

20.37 Acceptance Of Settlement Agreement

- (1) ~~The decision of a Hearing Panel accepting a Settlement Agreement shall constitute final disciplinary action of the Corporation and no appeal shall be available from the decision.~~ A decision of the Hearing Panel accepting a Settlement Agreement is a final decision for which no further review or appeal is provided in the Rules.

Rule 20.40

20.40 Rejection of Settlement Agreement

- (1) ~~There shall be no appeal from a decision of a Hearing Panel rejecting a Settlement Agreement.~~ A decision of the Hearing Panel rejecting a Settlement Agreement is a final decision for which no further review or appeal is provided in the Rules.

Rule 20.47

20.47 Review Hearing

- (1) The Respondent may file a written request for review of any decision made pursuant to Rule 20.45 within thirty calendar days after release of the decision of the Hearing Panel.
- (2) If a request for review is made, pursuant to subsection (1), a hearing shall be held as soon as reasonably possible and no later than twenty-one calendar days after filing of the written request for review unless otherwise agreed by the parties.
- (3) No member of a Hearing Panel who presided over a hearing held pursuant to Rule 20.45 shall sit on a Hearing Panel constituted for review of that decision.
- (4) If a Respondent does not request a review within the time period prescribed in subsection (1), the Hearing Panel decision shall become final.
- (5) Unless the Hearing Panel orders otherwise, a request for a review shall not operate as a stay from a decision made pursuant to Rule 20.45; ~~notwithstanding Rule 20.53(1).~~
- (6) ~~The review decision of a Hearing Panel may be appealed by either party pursuant to Rule 20.50A.~~ A review decision of the Hearing Panel is a decision for which no further review or appeal is provided in the Rules.

Rule 20.50

Part 11—Appeals of Disciplinary and Expedited Review Hearing Decisions

~~20.50. Right of Appeal~~

- ~~(1) The Corporation and a Respondent may appeal a disciplinary decision made by a hearing Panel to an Appeal Panel.~~
- ~~(2) A Respondent may appeal an expedited review hearing decision made by a Hearing Panel to an Appeal Panel.~~
- ~~(3) An appeal may be made on questions of law or fact or both.~~

Rule 20.51

~~20.51. Composition of Appeal Panel~~

- ~~(1) The Appeal Panel shall be comprised of:
 - ~~(a) one independent member of the Board of Directors;~~
 - ~~(b) one industry member of the Board of Directors; and~~
 - ~~(c) one former judge, who is a public member of a Hearing Committee of the District in which the disciplinary hearing or expedited review hearing was heard, or a former judge who is a public member of a Hearing Committee of a District, other than that in which the hearing or expedited review hearing was heard, if the two chairs of the respective Hearing Committees consent.~~~~
- ~~(2) In Quebec, the Appeal Panel shall be comprised of three members resident in Quebec, one of them being a former judge appointed by the Quebec District Council as a public member.~~
- ~~(3) Any hearing required by the present Rule in Quebec should be held in Quebec and the parties can present in French both verbally and in writing.~~

Rule 20.52

~~20.52. Appeal Process~~

- ~~(1) An application for appeal to the Appeal Panel must be made within thirty calendar days after release of the decision of the Hearing Panel.~~
- ~~(2) An application for appeal shall state the basis for such appeal pursuant to the Corporation Practice and Procedure.~~

Rule 20.53

~~20.53. Effect of Appeal Application~~

- ~~(1) An appeal to the Appeal Panel from a decision of a Hearing Panel shall operate as a stay from the decision, unless ordered otherwise by the Appeal Panel.~~

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- ~~(2) Notwithstanding subsection (1), an appeal to the Appeal Panel from an expedited review hearing decision shall not operate as a stay from the decision, unless ordered otherwise by the Appeal Panel.~~
- ~~(3) If the decision or order of the Hearing Panel suspends, expels or revokes registration of an Approved Person, the Approved Person shall be subject to strict supervision until release of the appeal decision.~~

Rule 20.54

~~20.54. Powers of Appeal Panel~~

- ~~(1) A hearing held under this Part shall be an appeal on the record, however, the Appeal Panel may receive new or additional evidence as it considers just.~~
- ~~(2) The Appeal Panel may:~~
 - ~~(a) affirm any decision;~~
 - ~~(b) quash any decision;~~
 - ~~(c) vary any decision or penalty;~~
 - ~~(d) make any decision that could have been made by a Hearing Panel pursuant to Rule 20.33, Rule 20.34, Rule 20.45 and Rule 20.49~~
 - ~~(e) extend or limit the decision's application and effect to any Districts of the Corporation;~~
 - ~~(f) order a new hearing; or~~
 - ~~(g) make any order or decision that is considered just.~~

Rules 20.55 to 20.57

~~Part 1211 - Public Hearings~~

~~20.5550 Public Hearings~~

- ~~(1) The following types of hearings shall be open to the public subject to subsection (2):~~
 - ~~(a) settlement hearings, after a Settlement Agreement has been accepted by Hearing Panel, pursuant to Rule 20.36;~~
 - ~~(b) disciplinary hearings pursuant to Rule 20.33 and Rule 20.34; and~~
 - ~~(c) expedited review hearings pursuant to Rule 20.47; and~~
 - ~~(d) enforcement appeal hearings pursuant to Rule 20.50.~~
- ~~(2) The hearings prescribed in subsection (1) shall be held in the absence of the public where the Hearing Panel or Appeal Panel is of the opinion that the desirability of avoiding disclosure, of intimate financial, personal or other matters, in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be public.~~
- ~~(3) Notwithstanding subparagraph (1) and (2), in Quebec, any disciplinary or disciplinary appeal panel must be public. However, such disciplinary or disciplinary appeal panel may on its own~~

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initiative or on request, order a closed-door hearing or prohibit the publication or release of information or documents in the interest of good morals or public order.

Part ~~13~~12 - Rule Making Powers

20.56~~51~~ Repealed.

Part ~~14~~13 - Transitional Provisions

20.57~~52~~ Transitional Provisions

- (1) Subject to subsection (2), any provision of any Rule or Ruling of the Corporation in effect immediately prior to the coming into effect of these Rules shall remain in full force and effect until such Rule or Ruling, has been repealed.
- (2) In the event of a conflict between this Rule and the provisions of any Rule or Ruling of the Corporation that remains in effect after this Rule comes into effect, the provisions of this Rule shall prevail.

Corollary Amendments to Rule 33.1

Rule 33.1

- 33.1. Any Dealer Member or other person directly affected by a decision of the Board of Directors, a District Council, Hearing Panel, or Board Panel ~~or Appeal Panel~~ (other than a decision in respect of which the time for review or appeal under the Rules has elapsed) in respect of which no further review or appeal is provided in the Rules may request any securities commission with jurisdiction in the matter to review such decision and notice in writing of such appeal shall be given forthwith to the National Hearing Coordinator.