

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

**AMENDMENTS TO COMPLAINT HANDLING REQUIREMENTS - CLIENT COMPLAINT HANDLING RULE
AND GUIDANCE NOTE AND AMENDMENTS TO DEALER MEMBER RULES 19, 37 AND 2500**

PROPOSED AMENDMENTS

1. A new Dealer Member Rule and Guidance Note¹ on the complaint handling process are enacted as follows:

“RULE XXXX

Client Complaint Handling

1. Introduction

This rule establishes minimum requirements for the client complaint handling process including timely complaint resolution, record retention, and internal discipline. Clients who are considered to be institutional clients pursuant to Rule 2700 are not subject to this rule. There are additional requirements set out in Rule 3100 that are also applicable to the processes of handling client complaints.

2. General

A “complaint” subject to this rule must be submitted by a client or a person authorized to act on behalf of a client and is deemed to include:

- A recorded expression of dissatisfaction with a Dealer Member or employee or agent alleging misconduct; and
- A verbal expression of dissatisfaction with a Dealer Member or employee or agent alleging misconduct that would reasonably necessitate an investigation based on the circumstances of the complainant, or the nature or severity of the alleged misconduct.

Alleged misconduct includes, but is not limited to, allegations of breach of confidentiality, theft, fraud, misappropriation or misuse of funds or securities, forgery, unsuitable investments, misrepresentation, unauthorized trading relating to the client’s account(s), other inappropriate financial dealings with clients and engaging in securities related activities outside of the Dealer Member.

¹ IIROC is in the midst of a project to rewrite its Rule Book. Should these proposals be made effective prior to the implementation of the new Rule Book format, the rule and the guidance note will be implemented on an interim basis using the existing rule numbering approach.

Complaints are to be handled by sales supervisors or compliance staff (or the equivalent) and a copy must be filed with the compliance department / function (or the equivalent) of the Dealer Member.

A matter which is the subject of litigation is not considered a “complaint” for the purposes of this Rule.

3. Designated complaints officer

The Dealer Member must appoint an individual to act as the designated complaints officer. The individual must have the requisite experience and authority to oversee the complaint handling process and to act as a liaison with the Corporation.

4. Complaint procedures / standards

Establish written procedures for dealing with complaints

Dealer Members must have written policies and procedures to ensure that complaints are dealt with effectively, fairly and expeditiously.

Each Dealer Member must ensure that registered representatives and their supervisors are made aware of all complaints filed by their clients.

Each Dealer Member must put procedures in place so that its senior management is made aware of complaints of serious alleged misconduct and of all legal actions.

Dealer Members must have policies and procedures in place to monitor the general nature of complaints. When a Dealer Member reasonably determines that the number and / or severity of complaints is significant, or when a Dealer Member detects frequent and repetitive complaints made with respect to the same matter which may on a cumulative basis indicate a serious problem, then internal procedures and practices must be reviewed, with recommendations to be submitted to the appropriate management level.

Client access to complaint process

At time of account opening, Dealer Members must provide new clients with:

- a written summary of the Dealer Member’s complaint handling procedures, which is clear and can be easily understood by clients; and
- a copy of a Corporation approved complaint handling process brochure.

On an ongoing basis, Dealer Members must make available to their clients (either on their website or by other means) a written summary of the Dealer Member's complaint handling procedures, so that clients can stay informed on how to submit a complaint.

Complaint acknowledgement letter

The Dealer Member must send an acknowledgement letter to the complainant within five (5) business days of receipt of a complaint.

The acknowledgement letter must include the following:

- (a) The name, job title, and full contact information of the individual at the Dealer Member handling the complaint;
- (b) A statement indicating that the client should contact the individual at the Dealer Member handling the complaint if he / she would like to inquire about the status of the complaint;
- (c) An explanation of the Dealer Member's internal complaint handling process, including but not limited to the role of the designated complaints officer;
- (d) A reference to an attached copy of a Corporation approved complaint handling process brochure and a reference to the statutes of limitations contained in the document;
- (e) The ninety (90) calendar days timeline to provide a substantive response to complaints; and
- (f) A request for any information reasonably required to investigate the complaint.

Complaint substantive response letter

The Dealer Member must send a substantive response letter to the complainant. The substantive response letter must be accompanied by a copy of a Corporation approved complaint handling process brochure.

Dealer Members must respond to client complaints as soon as possible and no later than ninety (90) calendar days from the date of receipt by the firm. The ninety (90) days timeline must include all internal processes (with the exception of any internal ombudsman processes offered by an affiliate of the firm) of the Dealer Member that are made available to the client. The client must be advised if he / she is not to receive a final response within the ninety (90) days time frame accompanied by reasons for the delay and the new estimated time of completion.

The Dealer Member is required to advise the Corporation if it is unable to meet the ninety (90) days timeline and must provide reasons for the delay.

The substantive response to the client must include the following information:

- (a) A summary of the complaint;
- (b) The results of the Dealer Member's investigation;
- (c) The Dealer Member's final decision on the complaint, including an explanation; and
- (d) A statement describing to the client the options available if the client is not satisfied with the Dealer Member's response, including:
 - (i) arbitration;
 - (ii) if a request is made within 180 days from the date of the Dealer Member's final response, the ombudsperson service (i.e. the Ombudsman for Banking Services and Investments);
 - (iii) submitting a regulatory complaint to the Corporation for an assessment of whether disciplinary action is warranted;
 - (iv) litigation / civil action; and
 - (v) other applicable options.

In addition, where an internal ombudsman process is offered by an affiliate of the Dealer Member, the Dealer Member must disclose in the substantive response letter:

- (a) that the use of the internal ombudsman process is not mandatory; and
- (b) the estimated length of time the process is expected to take based on historical data.

Duty to assist in client complaint resolution

Approved Persons must co-operate with Dealer Members where they were employed or acted as agent when moving to a different firm after events or activities resulted in a client complaint.

Dealer Members must co-operate with each other if events relating to a complaint took place at more than one Dealer Member or the Approved Person is an employee or agent of another Dealer Member.

5. Settlement agreements

A release entered into between a Dealer Member and a client may not impose confidentiality or similar restrictions aimed at preventing a client from initiating a complaint to the securities regulatory authorities, self regulatory organizations or other enforcement authorities, or continuing with any pending complaint in progress, or participating in any further proceedings by such authorities.

6. Complaint record retention

The complaint file must be maintained for seven (7) years and retrievable within a reasonable period of time.

Each Dealer Member must keep an up-to-date record in a central, readily accessible place of all recorded submissions and follow-up documentation received by it relating to the conduct, business, and affairs of the Dealer Member, or an employee or agent of the Dealer Member for a period of two (2) years from the date of receipt of the complaint.

The following information must be retained for each complaint:

- (a) The complainant's name;
- (b) The date of the complaint;
- (c) The nature of the complaint;
- (d) The name of the individual who is the subject of the complaint;
- (e) The security or services which are the subject of the complaint;
- (f) The materials reviewed in the investigation;
- (g) The name, title, and date individuals were interviewed for the investigation; and
- (h) The date and conclusions of the decision rendered in connection with the complaint.

7. Internal Discipline

Each Dealer Member must establish procedures to ensure that breaches of the Rules of the Corporation as well as applicable securities legislation are subjected to appropriate internal disciplinary measures.

GUIDANCE NOTE XXXX
Client Complaint Handling

COMPLAINTS GENERALLY

The fair and timely handling of client complaints is vital to the overall integrity of the investment industry. Dealer Members should regard the handling of all client complaints as an essential element of the proper servicing of client accounts generally. Addressing client complaints fairly and on a timely basis demonstrates to clients that their issues are dealt with seriously and enhances investor confidence in the industry. An effective framework for dealing with client complaints is in keeping with appropriate standards of professionalism for the industry.

As a result, it is important that Dealer Members establish policies and procedures to deal effectively with client complaints. Such policies and procedures must address the general requirements of Rule 2500, Section VIII, and the specific requirements of Rule XXXX regarding client complaint handling. Rule 2500, Section VIII, requires Dealer Members to provide a written response to all complaints made in writing. Further, where a written complaint does not relate to a matter within the scope of Rule XXXX, Rule 2500, Section VIII also requires that the Dealer Member resolve and respond to the complaint within a reasonable time frame.

COMPLAINTS SUBJECT TO THE REQUIREMENTS OF RULE XXXX

GENERAL

Recorded expression of dissatisfaction

A recorded expression of dissatisfaction includes any written submission, electronic communication, or verbal recording.

Verbal expression of dissatisfaction

As set out in the Rule, verbal expressions of dissatisfaction alleging misconduct are to be treated as a complaint subject to the Rule. Where the client has provided a clear verbal expression of dissatisfaction alleging misconduct, the complaint should be treated in the same manner as if it were a recorded expression of dissatisfaction, provided that prior to the issuance of a substantive response letter, the Dealer Member may require that the client document the complaint in a recorded form.

If a verbal expression of dissatisfaction is unclear, a sales supervisor / compliance staff or the equivalent is expected to exercise professional judgment in deciding if the verbal expression of dissatisfaction relates to alleged misconduct that requires an investigation. Where a preliminary investigation of a verbal expression of dissatisfaction has been performed and the Dealer Member determines:

1. That there is evidence to indicate that the client complaint may have merit, the complaint should be treated in the same manner as a recorded expression of dissatisfaction, provided that prior to the issuance of a substantive response letter, the Dealer Member may require that the client document the complaint in a recorded form.
2. That the nature of the client complaint is unclear or there is no evidence to indicate that the client complaint has merit, the Dealer Member shall request that the client document and submit the complaint in a recorded form. Where the client:
 - (a) Documents and submits the complaint in recorded form, the complaint should be treated in the same manner as if it had originally been submitted as a recorded expression of dissatisfaction; or
 - (b) Fails to document and submit the complaint in recorded form, the Dealer Member may exercise their professional judgment and terminate their investigation of the complaint.

Decision to not investigate a complaint or to terminate an investigation of a complaint

A sales supervisor / compliance staff or the equivalent may exercise their professional judgment in deciding whether a complaint requires an investigation. In assessing whether a complaint should be investigated, Dealers Members must consider whether the client would have a reasonable expectation that the complaint should be handled through the process outlined in the Rule. Complaints made by individuals who are not clients of the Dealer Member are not subject to the Rule. The decision and reason not to commence an investigation of a complaint must be fully documented and maintained in accordance with the complaint record retention requirements.

DESIGNATED COMPLAINTS OFFICER

The designated complaints officer is not a registered individual position. The purpose of the position is to ensure that the Dealer Member has someone with

the requisite knowledge, experience and authority in place to manage the proper handling of complaints.

Dealer Members may choose to name the Ultimate Designated Person or Chief Compliance Officer or an individual acting in a supervisory capacity over the complaints process for the position of designated complaints officer.

Dealer Members are encouraged to make available to the designated complaints officer and their staff specific training relating to dispute resolution.

COMPLAINT PROCEDURES / STANDARDS

Client access

The information provided to clients on an ongoing basis would include the first point of contact in submitting a complaint and the contact information for the designated complaints officer. The information provided may include the stipulation that the designated complaints officer should generally only be contacted when a complaint had been submitted and the client wishes to express concerns with the handling of the complaint.

Complaint substantive response letter - timelines

The ninety (90) calendar days timeline to provide a substantive response to clients must include all internal processes (with the exception of any internal ombudsman processes offered by an affiliate of the firm) of the Dealer Member that are made available to the client that involve but are not limited to the supervisory function / branch management, the compliance function, and legal review.

Complaint substantive response letter - OBSI information

Member firms must inform clients that OBSI will consider a client complaint at the earlier of:

- (i) the date the complaint substantive response is provided to the client; or
- (ii) ninety (90) days after the receipt of the complaint.

This can be done, depending upon the status of the complaint, either as part of the substantive response letter or as part of any letter informing the client that the complaint will not be resolved within ninety (90) days.

Duty to assist clients in documenting complaints

Dealer Members should be prepared to assist clients in submitting a complaint, in particular if the client is handicapped in any way, is a senior with special needs or a language or a literacy issue is involved.

COMPLAINT RECORD RETENTION

Records in a central, readily accessible place must be retrievable within two (2) business days and documents kept for an extended period of time must be retrievable within five (5) business days unless there are reasonable, extenuating circumstances.

2. Dealer Member Rule 19 is amended by repealing section 19.4 as follows:

“Each Dealer Member shall keep an up-to-date record in a central place of all written complaints received by it relating to the conduct, business and affairs of the Dealer Member, any registered representative, investment representative, branch manager, assistant or co-branch manager, sales manager, partner, director or officer, or any person employed by the Dealer Member, for a period of 24 months from the date of receipt of the complaint.”

3. Dealer Member Rule 37 is amended by repealing section 37.3 as follows:

“Each Dealer Member shall provide to new clients, and to clients who submit written complaints to the Dealer Member, a copy of the written material approved by the Corporation which describes the arbitration programme or organization approved by the Board of Directors pursuant to Rule 37.1 and the ombudsperson service approved by the Board of Directors pursuant to Rule 37.2.”

4. Dealer Member Rule 2500, Section VIII is repealed and replaced as follows:

“Each Dealer Member must establish policies and procedures to deal effectively with client complaints. Such policies and procedures must comply with Rule XXXX regarding client complaint handling, and also address complaints that may fall outside the scope of Rule XXXX. All complaints made in writing must be provided with a written response from Dealer Members.”