

MRIA CODE OF CONDUCT FOR MARKET AND SOCIAL MEDIA RESEARCH

Appendix “A”

COMPLAINTS ADJUDICATION PROCEDURE (“PROCEDURE” OR “MRIA’S PROCEDURE”)

1. Definitions:

- 1.1. The Parties to the Procedure may sometimes be referred to collectively as “Parties” and individually as a “Party”.
- 1.2. The complaining Party may also be referred to as the “Complainant”.
- 1.3. The MRIA member about whom the Complaint (defined in paragraph 2.2 below) is lodged may also be referred to as the “Respondent”.

2. Complaint:

- 2.1. Alleged infractions and/or violations of MRIA’s “Code of Conduct for Market and Social Research” (“Code”) must be clearly detailed in writing addressed to MRIA to the attention of MRIA’s Chief Executive Officer (the “Complaint”).
- 2.2. The Complaint must pertain to the professional actions of members of the Association (or failure to act) alleging, with example(s), one or more violation(s) of the Association’s Code.
- 2.3. MRIA members and non-members alike may file a Complaint under the Procedure against a member of MRIA, but not against a non-member.

3. Who May Make a Complaint:

- 3.1. A Complaint under this Procedure may be made by any of the following:
 - 3.1.1. a person or commercial or corporate entity;
 - 3.1.2. an association including MRIA; or
 - 3.1.3. one or more of MRIA members or non-members.

4. Initial Disposition of Complaints:

- 4.1. MRIA will consider accepting Complaints, when received by MRIA, for further processing under the Procedure outlined below.
- 4.2. MRIA will not accept a Complaint that is filed with MRIA more than twelve (12) months after the subject matter of the Complaint occurred unless, in the unanimous opinion of the “Acceptance Panel” (defined in paragraph 4.5 below), exceptional circumstances warrant an extension of time within which the Complaint may be filed with and accepted by MRIA.
- 4.3. When received at MRIA, the Complaint will be examined and considered by a two-person acceptance Panel (“Acceptance Panel”) comprised of:

4.3.1. MRIA's Chief Executive Officer ("CEO"); and

4.3.2. the Chair of MRIA's Standards Committee ("Chair").

The Chair will excuse him/herself if the CEO and Chair agree there is, or may reasonably be perceived to be a conflict of interest between the Chair and the Complainant, or the Respondent, or with the subject matter of the Complaint. In that event, the CEO will select one member of the "Research Neutrals Roster" (referred to under paragraph 6.6 below) to function as a substitute for the Chair on the Acceptance Panel ("Substitute Chair").

4.4. If the Acceptance Panel finds that the Complaint is frivolous, or that there is no evidence provided in the Complaint that reasonably supports the alleged violation(s), MRIA will, by written reply to the Complainant, signed jointly by the CEO and Chair (or Substitute Chair, as the case may be), decline to accept the Complaint. In that reply, MRIA will explain why the Complaint was not accepted for further consideration. If the Acceptance Panel agrees, MRIA may also make recommendations to the Complainant of alternative means for resolving the Complaint other than under the provisions of the Procedure.

4.5. If the Acceptance Panel does not find that the Complaint is frivolous and finds a *prima facie* case of violation(s) has been made in the Complaint to the reasonable satisfaction of the Acceptance Panel, MRIA will forward the Complaint to a three-person adjudication panel who will adjudicate the Complaint ("Adjudication Panel"), appointing one of them to function as Chair of the Adjudication Panel. (See also under Section 5 below).

4.6. Notification of MRIA's acceptance of a Complaint will be communicated by the Chair (or Substitute Chair) of the Acceptance Panel to the Parties within ten (10) business days of MRIA's receipt of the filed Complaint.

5. MRIA's Confidential Complaint Adjudication Procedure:

5.1. When reading this Procedure, the Parties are encouraged to refer simultaneously to Schedule "2" hereto in which the Procedure is briefly summarized, step-by-step and in chronological order.

5.2. Following acceptance of a Complaint by the Acceptance Panel, a three-person, non-conflicted Adjudication Panel will be selected by the CEO after consulting with the Chair (or the Substitute Chair, as the case may be) from a standing roster of not fewer than twelve (12) qualified members of MRIA (the "Research Neutrals Roster"). Appointment to the Research Neutrals Roster will be made pursuant to a merit-based application process, with selection criteria and terms of office approved and set from time-to-time by the Board of Directors ("Board").

- 5.3. Assisting all Adjudication Panels (and all other Panels involved in the Complaints Procedure) will be a staff member of MRIA who will function as Secretary/Administrator of the first-stage adjudicative process. He/she will also be responsible for editing and formatting the Adjudication Panel's decision in each case in a manner suitable to formal adjudication decisions, and to communicating the outcome to the Parties.
- 5.4. After consulting with both Parties, and the other members of the Adjudication Panel, as to their availability to attend at and participate in a hearing of the Complaint, the Chair of the Adjudication Panel will call for a full hearing of the Complaint on not less than twelve (12) working days' notice ("Complaint Hearing").
- 5.5. All members of the Adjudication Panel will be identified in such notice to the Parties of the Complaint Hearing.

6. Conduct and Rules of the Complaint Hearing:

- 6.1. Each Party will, at its own expense, attend the Complaint Hearing at the same time, and may be accompanied at the Complaint Hearing by such Party's legal counsel, and/or other representatives of, and witnesses for such Party, all of whom may actively participate on their client's behalf at the Complaint Hearing. For the purpose of paragraph 6.2 below, all of such persons, collectively, are included in the term "Party".
- 6.2. Oral submissions to the Adjudication Panel will be time limited to not more than a total of forty-five (45) minutes per Party including that Party's Evidence and Arguments (see paragraph 6.3 below) presented orally in person and through witnesses, and including closing summary statements, but excluding the time taken by the Adjudication Panel for the Adjudication Panel's questions and each Party's answers.
- 6.3. Participation by Electronic Means at Complaint and Appeal Hearings:
 - 6.3.1. MRIA will make available a telephonic, electronic, or other communication facility that permits all authorized participants to communicate adequately with each other during a Complaint Hearing and, if one is granted, an Appeal Hearing. Any person so entitled to attend such Hearing may participate in the meeting by means of such telephonic, electronic or other communication facility.
 - 6.3.2. A person participating in any such Hearing by such means is deemed to be present at that Hearing.
- 6.4. Evidence and Arguments:
 - 6.4.1. Each Party must file with MRIA, in writing, all the pertinent evidence and arguments on which that Party intends to rely at the Complaint Hearing.

- 6.4.2. The Evidence and Arguments must be filed with MRIA, copying the Chair of the Adjudication Panel, and the other Party, by not later than five (5) business days prior to the Complaint Hearing.
- 6.4.3. Members of the Adjudication Panel shall neither review nor consider, in the course of their deliberations, any evidence or argument from either Party other than that which is filed pursuant to paragraph 6.4 of this Procedure.

6.5. Confidentiality:

- 6.5.1. Each Party to the Complaint, each of the Party's witnesses, representatives and experts, each member of the Acceptance Panel, the Adjudication Panel and, if applicable, the Appeal Panel (discussed and described under paragraph 6.7 below), and MRIA's CEO, will execute MRIA's form of "Confidentiality and Non-Disclosure Agreement" (the "Confidentiality Agreement"), agreeing in advance that they will, subject to paragraph 6.5.2 below, maintain confidentiality of the entire proceedings including, without limitation or exception, the filing of the Complaint, and all information that is exchanged or made available throughout the Complaint process including, but not limited to, all proprietary information, trade or business secrets, or personal information (also referred to individually and collectively in this paragraph 6.5.1 as "Confidential Information"), declared by any of the Parties to the Complaint, or by their authorized representatives, as being their Confidential Information.
- 6.5.2. Notwithstanding anything stated or implied in this Complaint Adjudication Procedure, the Confidentiality Agreement shall not apply to, and none of the persons or entities who have executed the Confidentiality Agreement is bound to maintain confidentiality or proceed with respect to:
 - the actual contents of a decision by the Adjudication Panel to uphold the Complaint in whole or part, or
 - if there is an Appeal, to the actual contents of a decision by the Appeal Panel to uphold the Complaint in whole or part, nor to
 - the form or content of the actual sanctions imposed by MRIA pursuant to paragraphs 6.5.7 or 6.5.8 below.
- 6.5.3. Attached as Schedule "1" hereto is the Confidentiality and Non-Disclosure Agreement that will be used in all cases.
- 6.5.4. The Confidentiality and Non-Disclosure Agreement will be strictly enforced by MRIA.
- 6.5.5. A true copy of each of (i) the Confidentiality and Non-Disclosure Agreement and (ii) this Complaint Adjudication Procedure must be signed and returned to MRIA (attention: MRIA's CEO) by each Party within seven (7) business days of its receipt

from MRIA by the Party in question. Execution and return to MRIA of the Confidentiality and Non-Disclosure Agreement and the Complaint Adjudication Procedure by each Party, signed in counterpart, is acceptable.

- 6.5.6. The Complaint will not proceed if either Party declines to sign and return to MRIA both the Confidentiality and Non-Disclosure Agreement and a copy of the Complaint Adjudication Procedure.
- 6.5.7. If the declining Party is the Respondent, MRIA may on its own volition and at its sole discretion take the added step of sanctioning that Party. In determining the appropriate sanction to impose, MRIA will be guided by those of the provisions of Schedule “3” hereto that MRIA, in its sole discretion, deems to be applicable and appropriate.
- 6.5.8. Any breach of the Confidentiality and Non-Disclosure Agreement or the Complaint Adjudication Procedure after it/they is/are executed by both Parties will empower MRIA to take such action against the breaching Party as MRIA’s Board, in its sole discretion, deems appropriate in the circumstance including, without limitation, imposing one or more of the sanctions provided for in Schedule “3” hereto.

6.6. Decision of Adjudication Panel:

- 6.6.1. Written notice of the Adjudication Panel’s Decision and the reasons for Decision will be transmitted simultaneously by the Chair of the Adjudication Panel to both Parties within twelve (12) business days after the Complaint Hearing.
- 6.6.2. A Decision against the Respondent will include the sanction(s) recommended by the Adjudication Panel, or by the Appeal Panel in the case of an Appeal, selected from among the options prescribed in the Code and/or set forth in Schedule “3” hereto.
- 6.6.3. Decisions of the Adjudication Panel will be by majority vote.

6.7. Appeal:

- 6.7.1. Either Party may, on “acceptable grounds”, and by Notice of Request for Appeal, request an Appeal from the Adjudication Panel’s Decision.
- 6.7.2. The Party requesting the Appeal may also be referred to as the “Appellant”.
- 6.7.3. Notice of a Request for Appeal must be made, if at all, within three (3) business days of the Appellant receiving the Decision of the Adjudication Panel. It must be made in writing, addressed to MRIA’s CEO, copying the other Party and the Chair of the Adjudication Panel (or the Substitute Chair, as the case may be).

- 6.7.4. Requests for Appeal will be heard by a Review Panel of three (3) non-conflicted members of the Research Neutrals Roster appointed by the CEO after consulting with the Chair (or the Substitute Chair, as the case may be).
- 6.7.5. The “acceptable grounds” for appeal are limited to the Appellant’s claim, supported by details and rationale in the Notice of a Request for Appeal, that:
- the Adjudication Panel erred in the interpretation of the Code; or
 - the Adjudication Panel erred in the application of this Procedure; or
 - the Adjudication Panel misconstrued and/or misapplied the Evidence and Arguments submitted by either of the Parties; or
 - the Adjudication Panel reached conclusions that were not reasonably supported by the Evidence and Arguments as-filed and heard by the Adjudication Panel; or that
 - supported by the Appellant’s attestation, there exists reliable evidence (summarized in the Notice of Request for Appeal) that one or more of the members of the Adjudication Panel should have been recused from participating as a member of the Adjudication Panel due to the existence of an actual conflict of interest between such member and one of the Parties or with the subject matter of the Complaint that was not alleged by the Appellant prior to Notice of Request for Appeal being received by MRIA.
- 6.7.6. If the Review Panel does not grant the Request for Appeal, the Decision of the Adjudication Panel will be affirmed and the Parties notified accordingly.
- 6.7.7. If the Review Panel approves the Request for Appeal, the Complaint will be treated and adjudicated as a new Complaint by a non-conflicted Panel (the “Appeal Panel”) of three persons selected from the Research Neutrals Roster by the CEO, after consultation with the Chair (or the Substitute Chair, as the case may be).
- 6.7.8. The Appeal Panel will meet to adjudicate the Appeal (“Appeal Hearing”) on not less than twelve (12) working days’ notice to the Parties.
- 6.7.9. No member of the Review Panel may have participated in the Adjudication Panel; and no member of the Appeal Panel may have participated in the Adjudication Panel or the Review Panel.
- 6.7.10. No new evidence, or any evidence or argument other than was presented to the Adjudication Panel may be considered by the Appeal Panel.
- 6.7.11. Decisions of the Appeal Panel will be by majority vote.
- 6.7.12. There is no right of appeal from decisions of an Appeal Panel.

7. General Provisions:

7.1. For complicated cases and issues, the Adjudication Panel may retain a qualified, non-conflicted expert/consultant to advise the Adjudication Panel about matters related to the Complaint. Such expert/consultant, if retained by the Adjudication Panel (i) will be required to execute and comply with MRIA's Confidentiality and Non-Disclosure Agreement; and (ii) will have no decision-making authority in respect of any matter under consideration by the Adjudication Panel. Any costs associated with such a retainer will be shared equally by both Parties to the Complaint.

7.2. Notice:

7.2.1. Where any Party is required to give notice by this Procedure, notice shall be sufficiently given if:

- delivered personally to the person to whom it is to be given, or delivered to his/her recorded address (for the purpose of this sub-paragraph 7.2.1, the person's recorded address shall be the address maintained for the person or MRIA's membership records). A notice so delivered shall be deemed to have been given when it is delivered personally, or to the recorded address.
- mailed to him/her at his/her recorded address with confirmation of delivery by Canada Post. A notice so mailed shall be deemed to have been given on the third (3rd) day after the recorded date of mailing; or
- transmitted by telephone, e-mail or facsimile. Evidence of delivery of email or facsimile transmission should be maintained. A notice so transmitted shall be deemed given and received on the first (1st) day after dispatch that is not a Saturday or Sunday or any other day which is a statutory or bank holiday in Toronto, Ontario.

7.3. Release and Limitation of Liability:

7.3.1. In consideration for a person's (the "Releasor") membership in MRIA (which term shall include, for the purpose of this sub-paragraph 7.3.1, MRIA, its directors, officers, employees, agents, members and their respective successors, heirs, executors, administrators, personal representatives and assigns) and the Releasor's participation in the Complaint, the Releasor (which term shall include, for the purpose of this sub-paragraph 7.3.1, the Releasor and its, his or her successors, heirs, executors, administrators, personal representatives and assigns, as the context may require) hereby agrees:

- MRIA shall not be liable to the Releasor for any damages, including consequential or special damages, arising directly or indirectly from:
 - any breach of this Procedure, fundamental or otherwise; or
 - any negligence, acts or omissions of MRIA; or
 - any provision, duty or requirement of any statute, including, but not limited to, the *Libel and Slander Act*, R.S.O. 1990, c. L. 12; or
 - any duty at law or in equity.

- to release, remise, acquit and discharge MRIA from any claims, actions, demands, costs and expenses of any kind whatsoever, whether in contract, negligence or tort, at law or in equity, or by statute or otherwise, including, without limitation, the *Libel and Slander Act*, R.S.O. 1990, c. L.12, with respect to injury, loss or damage to the person or property of the Releasor, howsoever caused, in any way arising out of or related to a Complaint; and

- to indemnify, save and hold harmless MRIA from and against any claims, actions, demands, judgments, awards, declarations, orders, settlements, damages (including general, special, punitive, aggravated or exemplary damages), liabilities, losses, costs, charges, interest and expenses, or proceedings of any kind whatsoever which may be initiated or presented by any other persons, individuals or other legal entities, and which arise directly or indirectly from any acts or omissions of the Releasor. Without limiting the generality of the foregoing, the Releasor hereby agrees to pay all costs, fees and expenses, on a solicitor and own client basis, which may be incurred by MRIA, relating to any acts or omissions of the Releasor.

7.4. Without having the effect of invalidating the outcome of a Complaint Hearing or an Appeal Panel Hearing, MRIA may, acting on its own initiative, and for reasons of efficiency and practicality, modify the Procedure that MRIA applies to the Complaint that results in the Complaint Hearing, and, if applicable, the Appeal Panel Hearing..

8. Timeline for Procedure from start to finish: see Schedule “2” hereto.

9. This Procedure Takes Priority: This Procedure, including, without limitation, the Appendices to the Procedure, cancels and replaces MRIA’s Disciplinary Procedures dated December 2007, and revised November, 2010.

10. Acceptance of Procedure by Both Parties:

The foregoing is accepted by the Parties as evidenced by their signatures below.

By _____
Complainant

per: _____
I have authority from the Complainant to sign this document on its behalf

Dated: _____, 20••

By _____
Respondent

per: _____
I have authority from the Respondent to sign this document on its behalf

Dated: _____, 20••