
23. RULE ENFORCEMENT PROCEEDINGS - SPONSORS

Chapter 23 sets out APX powers to issue sanctions against a sponsor which breaches these Rules and/or the Act.

Notice to sponsor of an alleged breach

23.1 **APX** must, before making a determination that a **sponsor** has breached any relevant **Rule** (or referring an alleged breach to a **Review Panel** for determination under **Rule 24.6**), give the **sponsor** a notice that:

- (a) identifies the **Rule** which is alleged to have been breached by the **sponsor** and the circumstances of the alleged breach; and
- (b) details of the reasons why those circumstances give rise to a breach of the **Rules**.

APX must provide the **sponsor** with a reasonable opportunity (and in any event, not less than 5 **business days**) to respond to the allegation and make any submission to **APX** which the **sponsor** wishes to make in respect of the alleged breach (including in relation to the imposition of any penalty or sanction).

23.2 After making a determination that a **sponsor** has breached any relevant **Rule** but before notifying the **sponsor** under **Rule 23.3** that it has imposed one or more penalties or sanctions set out in **Rule 23.6**, **APX** must provide the **sponsor** with a reasonable opportunity (and in any event, not less than 5 **business days**) to respond to make any submission to **APX** which the **sponsor** wishes to make in respect of the imposition of any penalty or sanction for the relevant breach.

Enforcement action by APX

23.3 If **APX** determines that a **sponsor** has breached any of its obligations under these **Rules** then **APX** may, by written notice to the **sponsor**, notify the **sponsor** of that determination and impose one or more penalties or sanctions set out in **Rule 23.6**.

23.4 A notice issued by **APX** under **Rule 23.3** is required to contain the following details:

- (a) the **Rule** that **APX** has determined has been breached by the **sponsor**;
- (b) the information that resulted in **APX** determining that the **sponsor** breached the relevant **Rule** and the reasons in support of the determination;
- (c) the penalty and/or sanction (if any) to be imposed by **APX**; and
- (d) the **sponsor's** right to request a review of the decision by a **Review Panel**.

Agreed outcomes

23.5 **APX** may, by agreement with a **sponsor**, impose one or more penalties or sanctions set out in **Rule 23.6** in relation to a breach of these **Rules** or alleged breach of the **Rules**.

Penalties and sanctions

23.6 Where **APX**, under **Rule 23.3** or a **Review Panel** under **Rule 24.15** or **24.16**, determines that a **sponsor** has breached these **Rules**, **APX** or the **Review Panel** (as the case may be) may impose one or more of the following penalties and/or sanctions:

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- (a) privately or publicly censure the **sponsor**;
 - (b) impose a fine on the **sponsor** (up to the maximum amount specified in the **Procedures**);
 - (c) require the **sponsor** to undertake remedial action as specified by **APX**;
 - (d) direct the **sponsor** to pay the reasonable costs of **APX** of any investigation by **APX** under the **Rules** in respect of the **sponsor**;
 - (e) if applicable, direct the sponsor to pay the reasonable costs of the **Review Panel** of conducting the review;
 - (f) terminate the admission of the **sponsor**; or
 - (g) any other penalty specified in the **Procedures**.

23.7 Any fine imposed on a **sponsor** must be paid to **APX** within 30 days of the notification of the fine by **APX** or the **Review Panel** (as the case may be). Failure to pay a fine within this time period is a breach of this **Rule**.

Other default powers of APX

23.8 If **APX** considers that circumstances exist which have or may have a material adverse effect on the **sponsor's** ability to meet its obligations under these **Rules** then **APX** may, after giving written notice to the **sponsor** of its intention to rely on this **Rule 23.6**, immediately take any action it considers appropriate, including to suspend, restrict or terminate the admission of the **sponsor**.

23.9 If a **sponsor's** admission is terminated under **Rule 23.6(f)** or **23.8**, then the **sponsor** will only be re-admitted with the written approval and authorisation of **APX**.

Decisions of APX binding on the sponsor

23.10 Subject to the right of a **sponsor** to request a review by the **Review Panel**, any determination made by **APX** under **Rule 23.3**, **23.6** or **23.8** is binding on the **sponsor**.

Sponsor's right to review

23.11 A **sponsor** may request that a decision made by **APX** under **Rule 23.3** or **23.8**, or a penalty or sanction imposed under **Rule 23.6**, be reviewed by a **Review Panel** in accordance with **Chapter 24**.

Register and announcement of decisions

23.12 Subject to **Rule 23.13**, **APX** may publicly announce a decision by it once the period for the request of a review of that decision has expired.

23.13 **APX** may publicly announce any action taken under **Rule 23.8** immediately.