

Betting and Anti-Corruption

New Appendix 5

A submission from the Chairman of the Constitution Committee

Purpose or Objective

To establish rules on betting and anti-corruption.

Proposal

To adopt the ASOIF Model rules on betting and anti-corruption as Appendix 5.

Notes:

1. The Constitution Committee to complete the relevant details.
2. The Executive Committee to publish draft sanctions by the end of July 2012 for final consideration and ratification by Council in November 2012.

1. INTRODUCTION

- 1.1 The integrity of sport depends on the outcome of sporting events and competitions being based entirely on the competing merits of the participants involved. Any form of corruption that might undermine public confidence in the integrity of a sporting contest is fundamentally contrary to the spirit of sport and must be eradicated at all costs.
 - 1.2 [The International Federation] has adopted these rules ("**Rules**") as a means of safeguarding the integrity of the sport of **[insert sport]** by (i) prohibiting any conduct that may impact improperly on the outcome of its events and competitions and (ii) establishing a mechanism of enforcement and sanction for those who, through their corrupt conduct, place the integrity of the sport at risk.
 - 1.3 The [International Federation] is committed to taking all practical steps within its power to prevent corrupt practices undermining the integrity of the sport of **[insert sport]**. This commitment shall include:
 - (a) raising awareness of these Rules at all levels, including using existing and/or suitably adapted educational programmes and tools to provide information and educational materials to the widest possible target audience;
 - (b) establishing the best means of monitoring sports betting at International Competitions, including monitoring any irregular betting patterns that may occur;
 - (c) establishing the best means for the receipt of third party information on a confidential basis, for example, by establishing an information 'hot-line';
 - (d) establishing and, where appropriate, making use of effective channels for the exchange of intelligence and information related to the investigation and/or
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prosecution of Violations under these Rules;

- (e) co-operating with competent national and international authorities where information in its possession may also amount to or evidence infringements of other applicable laws or regulations; and
- (f) exchanging information with partners in the Olympic Movement (through ASOIF or otherwise) on acknowledged areas of best practice in relation to combatting corruption in sport.

2. APPLICATION AND SCOPE

- 2.1 These Rules shall apply to all Participants who participate or assist in an International Competition and each Participant shall be automatically bound by, and be required to comply with, these Rules by virtue of such participation or assistance.
- 2.2 It shall be the personal responsibility of every Participant to make himself aware of these Rules including, without limitation, what conduct constitutes a Violation of the Rules and to comply with those requirements. Participants should also be aware that conduct prohibited under these Rules may also constitute a criminal offence and/or a breach of other applicable laws and regulations. Participants must comply with all applicable laws and regulations at all times.
- 2.3 Each Participant submits to the exclusive jurisdiction of any Hearing Panel convened under these Rules to hear and determine charges brought by [the International Federation] and to the exclusive jurisdiction of CAS to determine any appeal from a Hearing Panel decision.
- 2.4 Each Participant shall be bound by these Rules until a date 6 months following his last participation or assistance in a Competition. Each Participant shall continue to be bound by these Rules in respect of his participation or assistance in Competitions taking place prior to that date.
- 2.5 It is recommended that National Federations put in place similar rules and regulations to safeguard the integrity of competitions held under their respective jurisdictions.
- 2.6 Notice under these Rules to a Participant who is under the jurisdiction of a National Federation may be accomplished by delivery of the notice to the National Federation concerned. The National Federation shall be responsible for making immediate contact with the Participant to whom the notice is applicable.

3. RULE VIOLATIONS

The following conduct shall constitute a Violation of these Rules (in each case whether effected directly or indirectly):

3.1 Betting

- (a) Participation in, support for, or promotion of, any form of Betting related to an Event or Competition (whether one in which the Participant is directly participating or is otherwise taking place in the Participant's sport or is taking place in another sport at an International Competition hosted by a Major Event Organisation in which the Participant is participating), including Betting with another Person on the result, progress, outcome, conduct or any other aspect
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of such an Event or Competition.

- (b) Inducing, instructing, facilitating or encouraging a Participant to commit a Violation set out in this Rule 3.1.

3.2 Manipulation of results

- (a) Fixing or contriving in any way or otherwise improperly influencing, or being a party to fix or contrive in any way or otherwise improperly influence, the result, progress, outcome, conduct or any other aspect of an Event or Competition.
- (b) Ensuring or seeking to ensure the occurrence of a particular incident in an Event or Competition which occurrence is to the Participant's knowledge the subject of a Bet and for which he or another Person expects to receive or has received a Benefit.
- (c) Failing in return for a Benefit (or the legitimate expectation of a Benefit, irrespective of whether such Benefit is in fact given or received) to perform to the best of one's abilities in an Event or Competition.
- (d) Inducing, instructing, facilitating or encouraging a Participant to commit a Violation set out in this Rule 3.2

3.3 Corrupt Conduct

- (a) Accepting, offering, agreeing to accept or offer, a bribe or other Benefit (or the legitimate expectation of a Benefit, irrespective of whether such Benefit is in fact given or received) to fix or contrive in any way or otherwise to influence improperly the result, progress, outcome, conduct or any other aspect of an Event or Competition.
- (b) Providing, offering, giving, requesting or receiving any gift or Benefit (or the legitimate expectation of a Benefit, irrespective of whether such Benefit is in fact given or received) in circumstances that the Participant might reasonably have expected could bring him or the sport into disrepute.
- (c) Inducing, instructing, facilitating or encouraging a Participant to commit a Violation as set out in this Rule 3.3

3.4 Inside Information

- (a) Using Inside Information for Betting purposes or otherwise in relation to Betting.
- (b) Disclosing Inside Information to any Person with or without Benefit where the Participant might reasonably be expected to know that its disclosure in such circumstances could be used in relation to Betting.
- (c) Inducing, instructing, facilitating or encouraging a Participant to commit a Violation set out in this Rule 3.4

3.5 Other Violations

- (a) Any attempt by a Participant, or any agreement by a Participant with any
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other person, to engage in conduct that would culminate in the commission of any Violation of this Rule 3 shall be treated as if a Violation had been committed, whether or not such attempt or agreement in fact resulted in such Violation. However, there shall be no Violation under this Rule 3 where the Participant renounces his attempt or agreement prior to it being discovered by a third party not involved in the attempt or agreement.

- (b) Knowingly assisting, covering up or otherwise being complicit in any acts or omissions of the type described in Rule 3 committed by a Participant.
- (c) Failing to disclose to the [International Federation] or other competent authority (without undue delay) full details of any approaches or invitations received by the Participant to engage in conduct or incidents that would amount to a Violation as set out in this Rule 3
- (d) Failing to disclose to the [International Federation] or other competent authority (without undue delay) full details of any incident, fact or matter that comes to the attention of the Participant that may evidence a Violation under this Rule by a third party, including (without limitation) approaches or invitations that have been received by any other party to engage in conduct that would amount to a Violation of this Rule;
- (e) Failing to cooperate with any reasonable investigation carried out by the [International Federation] or other competent authority in relation to a possible breach of these Rules, including failing to provide any information and/or documentation requested by the [International Federation] or competent competition authority that may be relevant to the investigation.

3.6 The following are not relevant to the determination of a Violation of these Rules:

- (a) Whether or not the Participant was participating, or a Participant assisted by another Participant was participating, in the specific Event or Competition;
- (b) The nature or outcome of any Bet in issue;
- (c) The outcome of the Event or Competition on which the Bet was made;
- (d) Whether or not the Participant's efforts or performance (if any) in any Event or Competition in issue were (or could be expected to be) affected by the acts or omissions in question;
- (e) Whether or not the results in the Event or Competition in issue were (or could be expected to be) affected by the acts or omissions in question.

4. BURDEN AND STANDARD OF PROOF

4.1 The [International Federation] or other prosecuting authority shall have the burden of proving that a Violation has occurred under these Rules. The standard of proof shall be whether the [International Federation] or other prosecuting authority has proved a Violation to the comfortable satisfaction of the Hearing Panel, a standard which is greater than the mere balance of probability but less than proof beyond a reasonable doubt.

4.2 Where these Rules place the burden of proof on the Participant alleged to have

committed a Violation to prove facts or circumstances, the standard of proof shall be by a preponderance of the evidence.

- 4.3 The Hearing Panel shall not be bound by judicial rules governing the admissibility of evidence and facts may be established by any reliable means, including but not limited to, admissions, evidence of third parties, witness statements, expert reports, documentary evidence and other analytical information.
- 4.4 The Hearing Panel shall have discretion to accept any facts established by a decision of a court or professional disciplinary tribunal of any competent jurisdiction which is not subject to a pending appeal as irrefutable evidence against the Participant to whom the decision relates unless the Participant establishes that the decision violated the principles of natural justice.
- 4.5 The Hearing Panel shall be entitled to draw an inference adverse against any Participant who is accused of committing a Violation if that Participant fails to appear in front of the Hearing Panel if requested to do so a reasonable time in advance of the hearing, or fails to comply with any information request that has been submitted in accordance with these Rules.

5. INVESTIGATING A BREACH

- 5.1 Any allegation or suspicion of a Violation of these Rules shall be reported to the [International Federation] for investigation and possible charge in accordance with this Rule 5.
- 5.2 The [International Federation] may conduct an investigation into the activities of any Participant that it believes may have committed a Violation of these Rules and may appoint one or more Persons for this purpose. Such investigation may be conducted in conjunction with relevant competent national or international authorities (including criminal, administrative, professional and/or judicial authorities) and all Participants must co-operate fully with such investigations. The [International Federation] shall have discretion, where it deems it appropriate, to stay its own investigation pending the outcome of investigations conducted by other competent authorities.
- 5.3 As part of any such investigation, if the [International Federation] reasonably suspects that a Participant has committed a Violation of these Rules, it may make a written demand to such Participant for information that is related to the alleged Violation and/or require the attendance of such Participant for interview, or a combination of the two. Any interview shall be at a time and place to be determined by the [International Federation] and the relevant Participant shall be given reasonable notice in writing of the requirement to attend. Interviews shall be recorded and the Participant shall be entitled to have legal counsel and an interpreter present.
- 5.4 By participation in a Competition, each Participant shall be deemed to have agreed for the purposes of applicable data protection laws and other laws, and for all other purposes, to have consented to the collection, processing, disclosure or any other use of information relating to his activities (including without limitation personal information) to the extent permitted under these Rules and shall confirm such agreement in writing upon demand.

6. ISSUING A NOTICE OF CHARGE

- 6.1 Where following an investigation the [International Federation] determines that there is
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a case for the Participant to answer under Rule 3, the [International Federation] shall issue the Participant with a written Notice of Charge setting out the following:

- (a) The specific Violation(s) that the Participant is alleged to have committed;
 - (b) The facts upon which such allegation(s) are based;
 - (c) The range of sanctions applicable under the Rules for such Violations;
 - (d) Details relating to the Participant's response to the Notice of Charge within a specified deadline; and
 - (e) The Participant's right to have the matter determined by a hearing.
- 6.2 The Notice of Charge shall also specify that, if the Participant wishes to exercise his right to a hearing, he must submit a written request for a hearing so that it is received by the [International Federation] as soon as possible but in any event within 14 days of receipt of the Notice of Charge. The request must state how the Participant responds to the charge and must explain (in summary form) the basis for such response.
- 6.3 If the Participant fails to file a written request for a hearing by the specified deadline, he shall be deemed to have:
- (a) waived his right to a hearing;
 - (b) admitted that he has committed the Violation(s) specified in the Notice of Charge; and
 - (c) acceded to the range of applicable sanctions specified in the Notice of Charge.
- 6.4 Where the Participant requests a hearing in accordance with Rule 6.2 the matter shall proceed to a hearing in accordance with Rule 7. Where the Participant is deemed to have waived his right to a hearing and to have admitted the Violation(s) in accordance with Rule 6.3, any hearing held at the [International Federation]'s discretion shall be limited to determining the applicable sanctions only.
- 6.5 In any case where the [International Federation] decides to charge a Participant with a violation under these Rules, he shall have discretion, in circumstances where he considers that the integrity of the sport could otherwise be seriously undermined, to provisionally suspend the Participant pending the relevant tribunal's determination of whether he has committed a Violation. A provisional suspension shall be effective from the date of notification to the Participant in accordance with these Rules. Alternatively, the Participant may accept a voluntary suspension from competition provided that it is confirmed in writing to the [International Federation]. A voluntary suspension shall be effective only from the date of receipt of the Participant's written confirmation of such to the [International Federation].
- 6.6 A decision to impose a provisional suspension on a Participant shall not be subject to appeal.
- 6.7 If a Participant retires whilst a disciplinary procedure under these Rules is underway, the [International Federation] shall retain jurisdiction to complete the relevant procedure. If the Participant retires before any disciplinary procedure has begun, the
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[International Federation] shall nevertheless have jurisdiction to conduct the relevant procedure. **RIGHT TO A FAIR HEARING**

- 7.1 Where the International Federation alleges that a Participant has committed a Violation of these Rules and the Participant denies the allegation and/or disputes the sanctions to be imposed for such Violation, then the matter shall be referred to a hearing before the Hearing Panel.
- 7.2 The Hearing Panel shall be appointed by the [International Federation] in accordance with the principles set out in Rule 7.3 below, the members of the Hearing Panel shall have had no prior involvement with the case and shall not, unless otherwise agreed between the parties, be from the same country as the Participant alleged to have violated these Rules.

[Note: It is for each International Federation to decide on the requirements for appointment to the Hearing Panel]

- 7.3 The hearing process shall respect the following principles: a timely hearing, a fair and impartial Hearing Panel, the right to be represented by counsel (at the Participant's expense), the right to respond to the asserted anti-corruption rule violation and range of resulting sanction; the right of each party to present evidence, including the right to call and question witnesses (subject to the Hearing Panel's discretion to accept evidence by telephone or written submission), the Participant's right to an interpreter at the hearing (with the Hearing Panel to determine the identity and responsibility for the cost of the interpreter) and a timely, written reasoned decision specifically including an explanation of the reason(s) for the sanction imposed.
- 7.4 Once the parties have made their submissions, the Hearing Panel shall determine whether a Violation has been committed. Where the Hearing Panel determines that a Violation has been committed and these Rules specify a range of possible sanctions for such Violation, the Hearing Panel shall also fix the appropriate sanction within that range after considering any submissions on the subject that the parties may wish to make.
- 7.5 The Hearing Panel shall issue a decision in writing, with reasons, as soon as possible after the conclusion of the hearing. The decision will set out and explain:
- (a) the Hearing Panel's findings as to whether any Violation has been committed;
 - (b) the Hearing Panel's findings as to what sanctions, if any, are to be imposed;
 - (c) the date that any period of ineligibility shall commence; and
 - (d) the rights of appeal described in Rule 9.

8. SANCTIONS

- 8.1 If the Hearing Panel decides that a Participant has committed a Violation, the Hearing Panel shall be entitled to impose the following Sanctions in accordance with this Rule 8.
- 8.2 **Ineligibility**
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- (a) The respective period of ineligibility for a Violation set out in:
- (a) Rule 3.1, shall be a minimum of [X] and a maximum of [X];
 - (b) Rule 3.2, shall be a minimum of [X] and a maximum of [X];
 - (c) Rule 3.3, shall be a minimum of [X] and a maximum of [X];
 - (d) Rule 3.4, shall be a minimum of [X] and a maximum of [X]; and
 - (e) Rule 3.5, shall be a minimum of [X] and a maximum of [X].

[Note: It is for each International Federation to decide on the sanctions that it wishes to impose for Violations under these Rules (noting that there are different Violations within each Rule). In so deciding, consideration should also be given to what the applicable sanctions would be where, on the facts of any given case, there might be an overlap between the different categories of Violation.]

- (b) The Hearing Panel shall have discretion to impose a period of ineligibility in accordance with the bands set out in Rules 8.2 (a)(a) In imposing any period of ineligibility in accordance with this Rule 8.2, the Hearing Panel shall be entitled to consider whether any aggravating and/or mitigating factors (as described in Rule 8.6) should be taken into account.
- (c) The period of ineligibility shall commence on the date the decision of the Hearing Panel is published and shall end on date stated in the published decision. The Hearing Panel may at its sole discretion reduce the period of ineligibility imposed by any period of provisional suspension already served by the Participant prior to the decision being reached.
- (d) No Participant shall participate in any capacity in any Event or Competition during his period of ineligibility as imposed by the Hearing Panel [save that, if directly invited by the International Federation, an ineligible Participant may attend an Event in an educational capacity as part of anti-corruption program organised by the International Federation].
- (e) If a Participant violates any prohibition on participation imposed in accordance with this Rule 8.2, such Participant shall be disqualified immediately from the relevant Event or Competition and the period of ineligibility originally imposed in accordance with these Rules shall recommence from the date of such violation.
- (f) These Rules shall continue to apply to any ineligible Participant and any Violation committed during a period of ineligibility shall be treated as a distinct Violation and separate proceedings shall be brought against the Participant in accordance with these Rules.

8.3 Financial Sanctions

[Note: It is for each International Federation to decide whether its Hearing Panel should have discretion to impose a fine in addition to ineligibility.]

8.4 Disqualification of Results

[Note: It is for each International Federation to decide on the disqualification of results, if any, arising from a Violation under these Rules, including sanctions in team sports]

or in sports that are not team sports but where there are nevertheless events that are team events e.g., relays. In so doing, it should be noted that, under Article 14 of the IOC Rules for the XXX Olympiad in London, the IOC shall refer to the relevant International Federation for its applicable rules regarding teams.]

8.5 Reinstatement

[Note: It is for each International Federation to decide on the conditions for a return to sport following ineligibility under these Rules].

8.6 Aggravating and Mitigating Factors

- (a) In imposing a Sanction in accordance with this Rule 8, the Hearing Panel shall be entitled to consider the existence of any aggravating and/or mitigating factors.
 - (b) Aggravating factors which may be considered by the Hearing Panel shall include (without limitation and where applicable):
 - (a) a failure to co-operate by the Participant with any investigation or requests for information;
 - (b) any previous Violations by the Participant;
 - (c) the Participant receiving or being due to receive a significant Benefit in connection with the Violation;
 - (d) the Violation having or having the potential to affect the course or result of an Event or Competition;
 - (e) the Participant displaying a lack of remorse (including, for example, refusing to take part in anti-corruption educational programs organised by the [International Federation]); and
 - (f) any other aggravating factor the Hearing Panel deems relevant.
 - (c) Mitigating factors which may be considered by the Hearing Panel shall include (without limitation and where applicable):
 - (a) co-operation by the Participant with any investigation or requests for information;
 - (b) a timely admission of guilt by the Participant;
 - (c) the Participant's clean disciplinary record;
 - (d) the youth or inexperience of the Participant;
 - (e) the Violation not having affected or not having the potential to affect the course or result of an Event or Competition;
 - (f) the Participant displaying remorse (including, for example, agreeing to take part in anti-corruption educational programs organised by the [International Federation]); and
 - (g) any other mitigating factor the Hearing Panel deems relevant.
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9. RIGHT OF APPEAL

- 9.1 The following decisions made under these Rules may be appealed either by the [International Federation] or the Participant who is the subject of the decision exclusively to CAS in accordance with this Rule 9:
- (a) a decision that a charge of breach of these Rules should be dismissed on procedural or jurisdictional grounds;
 - (b) a decision that a Violation has been committed;
 - (c) a decision that no Violation has been committed;
 - (d) a decision to impose a Sanction, including a Sanction that is not in accordance with these Rules;
 - (e) a decision not to impose a Sanction;
 - (f) any other decision that is considered to be erroneous or procedurally unsound.
- 9.2 The time for filing an appeal to CAS shall be twenty-one days (21) from the date of receipt of the decision by the appealing party.
- 9.3 Any decision and any Sanctions imposed shall remain in effect while subject to the appeal process, unless CAS directs otherwise.
- 9.4 The decision of CAS shall be final and binding on all parties and on all National Federations and there shall be no right of appeal from the CAS decision. No claim may be brought in any other court, tribunal or via any other dispute resolution procedure or mechanism.

10. RECOGNITION OF DECISIONS

- 10.1 It shall be a condition of membership of the [International Federation] that all National Federations shall comply with, recognise and take all necessary and reasonable steps within their powers to enforce and give effect to these Rules and to all decisions and Sanctions imposed hereunder.
- 10.2 Final decisions of a Major Event Organisation in relation to a Participant that are within the Major Event Organisation's jurisdiction and based on the same or similar betting and anti-corruption rules as these Rules shall be recognised and respected by the International Federation upon receipt of notice of the same. Any disciplinary process, so far as determining a Participant's Sanction beyond the sanction imposed by the Major Event Organisation is concerned, shall be determined by the [International Federation] in accordance with these Rules.

STATUTE OF LIMITATIONS

- 11.1 No action may be commenced under these Rules against a Participant for a Violation of these Rules unless such action is commenced within eight (8) years from the date on which the Violation occurred.
- 11.2 Subject to Rule 11.1 above, the [International Federation] may temporarily suspend any investigations under the Rules to avoid prejudice to and/or to give precedence to, investigations conducted by the relevant authorities into the same or related matters.
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12. AMENDMENTS AND INTERPRETATION

- 12.1 These Rules may be amended from time to time by the [International Federation].
- 12.2 Betting and anti-corruption rules are, by their nature, competition rules governing the conditions under which the sport of [insert] is to be held. They are not intended to be subjected to or limited by the requirements and legal standards applicable to criminal proceedings or employment matters. The policies and standards set out in these Rules as a basis for the fight against corruption in the sport of [insert] represent a broad consensus of those with an interest in fair sport and should be respected by all courts and adjudicating bodies.
- 12.3 These Rules shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes.
- 12.4 The headings and sub-headings in these Rules are for convenience only and shall not be deemed to be part of the substance of these Rules or to affect in any way the language of the provisions to which they refer.
- 12.5 The Definitions in Appendix 1 shall be considered an integral part of these Rules.
- 12.6 All references to the masculine gender in these Rules shall also include references to the feminine.
- 12.7 If any Rule or provision of these Rules is held to be invalid, unenforceable or illegal for any reason, it shall be deemed to be deleted and the Rules shall otherwise remain in full force and effect.
- 12.8 These Rules have come into full force and effect on [date].

APPENDIX 1

DEFINITIONS

"Athlete" means any athlete who participates or is selected to participate in an Event or Competition;

"Athlete Support Personnel" means any coach, trainer, manager, athlete representative, agent, team staff member, official, medical or para-medical personnel, family member or any other person employed by or working with an Athlete or the Athlete's National Federation participating in a Competition.

"Benefit" means the direct or indirect receipt or provision (as relevant) of money or money's worth (other than prize money and/or contractual payments to be made under endorsement, sponsorship or other contracts);

"Bet" means a wager of money or any other form of financial speculation;

"Betting" means making, accepting, or laying a Bet and shall include, without limitation, activities commonly referred to as sports betting such as fixed and running odds, totalisator/toto games, live betting, betting exchange, spread betting and other games offered by sports betting operators;

"CAS" means the Court of Arbitration for Sport in Lausanne, Switzerland;

"Competition" means an Event or series of Events conducted over one or more days under one

ruling body (e.g., World Championships).

"Event" means a single, race, match or contest.

"Hearing Panel" means the panel appointed by the International Federation to perform the functions assigned to it in these Rules.

"Inside Information" means any information relating to any Competition or Event that a Participant possesses by virtue of his position within the sport. Such information includes, but is not limited to, factual information regarding the competitors, the conditions, tactical considerations or any other aspect of the Competition or Event, but **does not include** such information that is already published or a matter of public record, readily acquired by an interested member of the public or disclosed according to the rules and regulations governing the relevant Competition or Event;

"International Competition" means *[scope to be determined by relevant International Federation]*.

"National Federation" means the member of the International Federation to which a Participant under these Rules is affiliated directly or through a club or another body affiliated to the member.

"Major Event Organisation" means any international multi-sport organisation that acts as the ruling body for any continental, regional or other International Competition.

"Participant" means any Athlete, Athlete Support Personnel, judge, referee, delegate, commissioner, jury of appeal member, competition official, National Federation team or delegation member and any other accredited person;

"Person" shall include natural persons, bodies corporate and unincorporated associations and partnerships (whether or not any of them have separate legal personality);

"Sanction" means any sanction that the Hearing Panel has the right to impose in accordance with Rule 8 of these Rules; and

"Violation" means a violation of these Rules as set out in Rule 3.

Current Position

None.

Reasons
