

Competition Law Compliance Policy

Purpose of the Policy:

The purpose of this policy is to ensure the parties involved with IMII are aware of anti-competitive behaviours which are prohibited under relevant competition laws, to provide guidance on how to observe competition laws in practice, and to assist and ensure that IMII complies at all times with any applicable legal requirements.

Scope:

This policy provides a minimum standard to which all IMII Staff, Directors and Members shall adhere to throughout the course of their involvement with IMII, and will continue to govern their conduct with respect to confidential information gained as a result of their association with IMII. This policy applies to corporate entities in the same manner as it does to individuals. Participants involved with IMII are required to abide by this policy.

Interpretation:

Except for terms specifically defined herein, all applicable terms are to be interpreted in accordance with the *Competition Act* of Canada. Should there be any conflict between the provisions found in this document and the *Competition Act*, the latter will prevail.

While this policy focuses on Canadian competition law, it should also be kept in mind that it is possible that laws of other countries may apply to the acts of IMII in certain circumstances. Most other countries' laws are similar, and therefore compliance with Canadian laws should generally ensure compliance with laws worldwide. However, it is impossible to be exhaustive. In case of doubt about activities involving the laws of any particular country, members should seek advice from their company's own legal team.

Definitions:

Unless otherwise defined herein, the following terms shall have the following meanings throughout this document.

- “anti-competitive” means any act prohibited by the *Competition Act* of Canada or which would reasonably be expected to result in grounds for an order of the Competition Tribunal;
- “Board” means the Board of Directors of the International Minerals Innovation Institute Inc. (IMII), whether acting alone or as a body;
- “Competition law” means the *Competition Act* of Canada (RSC 1985, c 19) and its associated regulations, as amended from time to time;
- “Competitively sensitive information” refers to any non-public information relating to a company's pricing or pricing strategies, costs, revenues, profits, margins, output, business or strategic plans, marketing, advertising, promotion, research and development, technologies, processes or trade secrets, or any such information whose disclosure would adversely impact the competitive position of the company and enable the recipient to derive a competitive advantage.
- “competitor(s)” means other corporations, businesses, or institutions (including educational institutions) whose primary business is the same or similar in nature, or who engage in or have an interest in the same or a similar type of matters;

- “Confidential information” refers to any financial, commercial, scientific, technical or other information that is treated consistently in a confidential manner (e.g., originated and communicated in a reasonable expectation of confidence and that it will not be disclosed), is not available from sources otherwise accessible by the public, or could not be obtained by observation or independent study by a member of the public acting on her/his own;
- “Director(s)” means the members of the Board of Directors, or their alternates, of International Minerals Innovation Institute;
- “guidelines” mean this document, any revisions or appendices, and related documents;
- “member(s)” means the individuals representing member organizations belonging to IMII, as well as member organizations whether they be individuals or corporate entities;
- “member organization(s)” means any business, educational institution, or other entity that has been granted membership in IMII;
- “participants” includes members, Directors, staff;
- “staff” means individuals who are employed directly by IMII, including but not limited to support staff, researchers and research assistants, and managers.

Responsibilities:

Complying with competition law at all times is of great importance and it is the responsibility of all Member Organizations, Directors and Staff to be aware of the provisions of this policy. Failure to comply can result in fines, civil damages, criminal prosecution and degradation of IMII’s reputation in the community.

Specifically Prohibited Activities:

- Parties involved in the IMII must not use the IMII or their involvement in IMII activities to seek anti-competitive agreements with competitors or act in a manner that could be reasonably construed to constitute anti-competitive acts or agreements. Members shall not discuss or communicate in any way, directly or indirectly, or convey suggestions with or to their competitors that they:
 - raise, stabilize or fix prices or other terms and conditions for sale;
 - engage in bid-rigging;
 - limit production or capacity expansion;
 - boycott particular customers or suppliers;
 - divide customers or markets between them;
 - limit innovation or investment; or
 - respond in a specific way to events affecting the industry.
- Parties involved in the IMII must not disclose competitively sensitive or confidential information about their respective business or undertakings to competitors, except in accordance with the guidelines set out in this policy.

Implementation:

The primary purpose of the Institute is to further industry-wide innovation and invention. In doing this, IMII must not displace the individual research efforts of its members. IMII should therefore focus on research that members would not ordinarily undertake separately with the same degree of skill and efficiency.

IMII, as an organization, must be cognizant of the practices and guidelines which are important in ensuring there is no contravention of competition law.

Given the overriding interest of IMII and its members in developing innovative approaches to minerals industry issues, members do co-operate within IMII projects with the purpose of enhancing their business opportunities. In order to ensure that members do not contravene competition law, the following guidelines should be employed by IMII and its members, Directors and staff:

General Guidelines:

- Projects should be as specific and narrow in scope and short in duration as possible.
- Participation in projects by members must be voluntary.
- The focus of IMII projects is intended to be on research or activities that members could not undertake separately with the same degree of skill and efficiency.
- There are to be no ancillary restraints imposed on members. That is, they should be free to continue to conduct independent research or undertake activities in the same or other areas as those covered by IMII-sponsored projects and/or to purchase or license other technologies.
- While certain members may contribute more to a particular research, development or demonstration project, all members that participate will have full access to the final results, including any intellectual property or know-how arising from the joint project, and be free to exploit these results.
- Results of IMII research shall be available to other members of IMII who were not originally partners in the research project upon the payment of a pro-rata share of start-up cost and cumulative expenditures to-date, including in-kind paid by each member involved in the research project plus a premium which would be a percentage of the initial start-up costs as determined by the Board.
- Research records must be recorded or preserved in accordance with the highest standard of scientific and academic practice and procedures. Research records must be retained in sufficient detail to enable the Institute, members, and staff to respond to questions about research accuracy, authenticity, compliance with pertinent contractual obligations, and externally imposed requirements and regulations governing the conduct of the research.
 - Research records must be retained for not less than:
 - Seven (7) years after the end of a research project's records collection and recording period;
 - Seven (7) years from the submission of a final project report distribution to Members; or
 - Seven (7) years from the date of publication of a report of the research project; whichever occurs last.

- Research records must be retained for longer periods:
 - if required to protect intellectual property rights;
 - if such research records are subject to specific federal or provincial regulations requiring longer retention periods;
 - if required by the terms of a research sponsorship agreement;
 - if any allegations regarding the conduct of the research arise, such as allegations of academic misconduct or conflict of interest; or
 - where legal proceedings have been commenced or are expected to commence in relation to the research or to Institute Members or Staff.
- Where research leads to a technology that can be used and/or sold, no part of the funding arrangement should impose restrictions on pricing or use of that technology.
- There should be no limits on each member's ability to license other technology, even if other technology is a rival to the type that is the subject of an IMII R&D Agreement.

Handling of Data and Competitively Sensitive and Confidential Information (“CSCI”):

- Only data relevant to the project is to be exchanged between participants in the execution of the project and should be exchanged only in accordance with these guidelines.
- Everyone who has access to CSCI must execute a non-disclosure agreement with their institution and undertake to not disclose or use the CSCI for any purpose other than for the project at issue.
- Data that is used in projects is to be handled as follows:
 - raw data submitted to the project by member organizations and members acting on their behalf should not be forward-looking;
 - raw data must only be provided directly to the principal investigator or project lead, who must not disseminate it to other members in the original format;
 - raw data will be rendered anonymous (in such a way that the originator cannot be identified) and stored securely; and
 - prior to dissemination, the anonymized data will be aggregated with data from other members.
- Data should be stored in a place that is not publicly accessible; specifically, data should only be accessible to individuals who require access for the purpose of the project;
- Any individual with access to CSCI should not communicate about the CSCI with any funding member who is not the source of the CSCI.
- If any individual with access to CSCI is affiliated with a member organization, such individual must not be involved with the affiliated Member's material business operations and decision-making following the conclusion of the project for a prescribed period of time (to be defined in the project funding agreement).
- If an RD&D project is led by a mineral company, rather than an academic institution, and its research staff on the project must receive another Member's CSCI, such research staff must not be involved with the lead Member's material business operations and decision-making following the conclusion of the project for a prescribed period of time (to be defined in the project funding agreement).

- In any work product arising from the project, such as presentations or written reports, any reference to a Member's CSCI must be redacted when such work product is shared with another Member.

In the Event of an Investigation:

If members or staff become aware of any actual or possible governmental or regulatory investigation into the activities of the Institute, they must not obstruct the investigation including by the destruction of or unauthorized tampering with records.

Training and Awareness:

The Executive Director of IMII will ensure the staff receive regular compliance training so that they can identify potential competition law issues in advance and do not create ambiguous or misleading documents, minutes of meetings, reports and the like. In addition, external legal support will be available to instruct in the event that any competition law issues do arise.

The Executive Director of IMII will also seek to implement this policy by other means as appropriate, such as:

- communication protocols;
- meeting protocols;
- member education;
- compliance statements for staff, members and directors;
- independent data collection for sensitive information;
- confidentiality agreements with researchers; and a
- document retention program.

Breach of Policy:

Members, Directors and staff are required to report breaches of this policy to the Board Chair who will, in turn, report the breach to the GNHR Committee for review and appropriate action.

Members, Directors and staff who breach the provisions of the Competition Law Compliance Policy are subject to disciplinary action by the Board of Directors, including loss of privileges to attend Board meetings, removal from committees, exclusion from any or all IMII premises or functions and such other sanctions as the Board may feel are appropriate under the circumstances. The Board may ask the Member or Director to resign and/or the member organization from which the Member or Director was named to appoint a different person to the Board, panel or steering committee. Concerns involving the Board Chair should be reported to the Executive Director, who will in turn report the alleged breach to the GNHR Committee for review and appropriate action.

Employees who breach the provisions of the Competition Law Compliance Policy are subject to disciplinary action by the GNHR Committee, up to and including, termination of employment for cause.

No retaliation will be taken against any individual for raising a concern, question or complaint in good faith. Anyone with concerns regarding competition law compliance by members, Directors or staff of the IMII should come forward to discuss those concerns without fear of reprisal.