

## WHEREABOUTS REQUIREMENTS - INTRODUCTORY NOTE

The World Anti-Doping Code (the “Code”), the International Standard for Testing (the “IST”), and the *Guidelines for Implementing an Effective Athlete Whereabouts Program* (the “Guidelines”) all describe in some detail the requirement for Athletes to provide whereabouts information for Anti-Doping Organizations’ to use in conducting effective Testing. The purpose of this introductory note is to provide a brief and practical overview of those requirements.

1. The purpose of whereabouts requirements. The primary purpose of the Code whereabouts requirements is to facilitate Out-Of-Competition Testing of high-profile Athletes and other Athletes most at risk of doping. No Advance Notice Out-Of-Competition Testing is at the core of effective doping control on an Athlete’s whereabouts. Without accurate information as to an Athlete’s whereabouts, such Testing can be inefficient and often impossible.

The Code imposes a uniform whereabouts reporting requirement on a very small segment of the Athlete population. While this requirement is burdensome, it is critically important to clean sport. It is important for Anti-Doping Organizations to make sure that this burden is not imposed on Athletes beyond the organization’s Testing needs and capabilities. It is also important for Anti-Doping Organizations to keep in mind that the object of requiring whereabouts information is to find Athletes and collect Samples from them, not to penalize them for Filing Failures and Missed Tests. Consequently, the requirements described in the Code, the IST, and the Guidelines should be applied fairly and practically, with that objective in mind.

2. Evolution of the Code whereabouts requirements.

The 2003 Code left it to each Anti-Doping Organization to devise and apply its own whereabouts requirements. That led to inconsistent approaches among organizations conducting Out-Of-Competition Testing, and a consequent lack of coordination and mutual recognition of each other’s Testing attempts. In addition, a significant number of Anti-Doping Organizations did not collect whereabouts information because they did not conduct any No-Advance-Notice Out-Of-Competition Testing. In the consultation process regarding amendments to the 2003 Code, many stakeholders therefore called for harmonization of the whereabouts requirements to help those already conducting Out-Of-Competition Testing and to push others to incorporate No-Advance-Notice Out-Of-Competition Testing into their Test Distribution Plans and to coordinate the collection of whereabouts from athletes in multiple RTPs and ensure that athletes need only provide whereabouts information once to a single ADO..

The 2009 Code took a measured approach to these goals, permitting Anti-Doping Organizations to fashion their own whereabouts requirements for the majority of their Athletes, but requiring them to apply the 365-day whereabouts requirements set out in Section 11 of the 2009 IST to their most high-profile Athletes and those Athletes at the highest risk of doping. After the first year of the new IST’s implementation, a working group was formed by the World Anti-Doping Agency to consult with stakeholders and receive input from stakeholders on their experiences with the IST whereabouts requirements. As part of the consultation process, the working group conducted a whereabouts implementation survey of all International Federations and National Anti-Doping Organizations. Generally, the response from stakeholders was that the mandatory IST whereabouts requirements have struck a fair balance between the rights and burden on Athletes and Anti-Doping Organizations’ need for whereabouts information to conduct No Advance Notice Out-of-Competition Testing. It is also notable that the IST has prompted many Anti-Doping Organizations to start (or to expand) their Out-of-Competition Testing efforts.

The Code whereabouts requirements as detailed in the IST and Guidelines are a work in progress. The Guidelines aim to support more effective use of whereabouts information in No-Advance-Notice Out-of-Competition Testing, which includes:

(a) Recognition that Anti-Doping Organizations need not and should not collect whereabouts information from Athletes who will not be Tested Out-of-Competition using that information. The objective is effective Testing, not information collecting.

(b) The focus of the IST-mandated whereabouts requirements is on the most high-profile Athletes and those Athletes at the highest risk of doping. Anti-Doping Organizations can collect less burdensome types of whereabouts information from other Athletes within their jurisdiction by employing a “pyramid” approach to the collection of whereabouts information.

(c) While the number of Filing Failures and Missed Tests is generally low, there have been some instances where Samples could have been effectively collected and a Filing Failure or Missed Test avoided had the rules been applied in a more equitable and practical fashion.

(d) To mitigate the burden on Athletes as much as possible, WADA will continue to make Whereabouts Filing on ADAMS more user-friendly.

3. Responsibility of Anti-Doping Organizations. Each International Federation and National Anti-Doping Organization is required to create a Registered Testing Pool of those Athletes within its jurisdiction who are required to comply with the IST whereabouts requirements. The Registered Testing Pool should include both those Athletes who have a high public profile in a sport or country and those Athletes who are at the highest risk of doping. Importantly, there should not be more Athletes in the Registered Testing Pool than will actually be tested Out-of-Competition by the Anti-Doping Organization at least three times within an 18-month period. Anti-Doping Organizations should not burden Athletes with the requirement to provide whereabouts information that is not actually used in Out-of-Competition Testing.

Each Anti-Doping Organization is allowed to define its own criteria for inclusion in its Registered Testing Pool based on its own risk assessment(s) and on the unique characteristics of the sport or country; however, the expectation is that the Registered Testing Pools of International Federations will include Athletes who are candidates for Olympic, Paralympic, or World Championship medals. The Registered Testing Pools of National Anti-Doping Organizations will include Athletes who are part of national teams in Olympic or Paralympic sports or other sports of high national priority and Athletes who train independently but perform at the Olympic, Paralympic, or World Championship level and may be selected for such Events. All Registered Testing Pools should include Athletes who are serving periods of Ineligibility, Athletes who retired while in the Registered Testing Pool and now want to return to Competition, and Athletes that an Anti-Doping Organization wishes to target for Testing based on suspicion of doping. In Team Sports, Registered Testing Pools may be defined by specific individuals or by reference to teams or both so that the Athletes in the Registered Testing Pool could be the top players in that sport or all of the Athletes who play for a particular high-profile or top-ranked team.

International Federations and National Anti-Doping Organizations should coordinate with each other in designing their Registered Testing Pools and Test Distribution Plans so as to efficiently allocate their combined anti-doping resources. This may mean that in some cases, International Federations rely on National Anti-Doping Organizations to gather whereabouts information and test high-profile Athletes, and in other cases National Anti-Doping Organizations do not include all International Federation Registered Testing Pool Athletes from their country in the National Anti-Doping Organization's Registered Testing Pool.

Beyond the limited group of Athletes required by the IST to be included in Registered Testing Pools, Anti-Doping Organizations are encouraged, as part of their Test Distribution Plans, to create other pools of Athletes who are subject to less stringent Whereabouts Filing requirements. This “pyramid” approach of creating different levels of whereabouts requirements for different levels of

Athletes balances the burden placed on Athletes with the need to locate Athletes to conduct effective Out-of-Competition Testing.

It is important that Anti-Doping Organizations' Test Distribution Plans remain unpredictable. Out-of-Competition Testing should occur both during and outside of the daily 60-minute time slot provided by Athletes in the Registered Testing Pool.

It is also important that Anti-Doping Organizations publish the names of Athletes in their Registered Testing Pools and notify those Athletes when they have been included or removed from the pool. All Athletes included in a Registered Testing Pool should be informed and educated so that they understand the whereabouts requirements that they must satisfy, how the whereabouts system works, the consequences of Filing Failures and Missed Tests, and their right to contest Filing Failures and Missed Tests that have been asserted against them.

Anti-Doping Organizations should be proactive in helping Athletes avoid Filing Failures and Missed Tests. For example, many Anti-Doping Organizations systematically remind the Athletes in their Registered Testing Pool of quarterly Whereabouts Filing deadlines and then follow-up with those Athletes who have still not filed their whereabouts as the deadline approaches. Similarly, before reporting a Missed Test, and subject to recognition that Out-of-Competition is supposed to be No Advance Notice, Doping Control Officers are required to make all reasonable efforts under the circumstance to locate the Athlete for Testing. The Doping Control Officer's priority is on locating Athletes for Testing. In some locations, such as hotels and gated communities, telephone contact with the Athlete before the Athlete is physically in the presence of the Doping Control Officer is unavoidable. Similarly, a Doping Control Officer may call an Athlete within five minutes before the Doping Control Officer leaves a specified 60-minute location in case the Athlete is there but is not aware that the Doping Control Officer is trying to conduct a test.

Finally, Athlete whereabouts information should always be gathered, stored, and shared in accordance with the International Standard for Data Protection and any applicable national law, preferably through the use of ADAMS.

4. Athlete Requirements. Athletes included in Registered Testing Pools are required to provide the following location information for each day in the upcoming quarter:

- (a) The location where the Athlete will be staying overnight;
- (b) A 60-minute time slot between 6:00 a.m. and 11:00 p.m. where the Athlete can always be located for Testing; and
- (c) The times and locations of the Athlete's regularly-scheduled activities (e.g., regular training times, work, etc.).

Since the times and locations provided may well change during the quarter, the Athlete is required to update this quarterly Whereabouts Filing on an ongoing basis. The Athlete must always update the daily information on the location where the Athlete will be staying overnight and the 60-minute time slot where the Athlete will always be available for testing. The Athlete must also update the quarterly filing when his/her regular schedule of activities changes. However, the Athlete need not update the schedule of regular activities when the Athlete departs from that schedule on a one-off basis.

An Athlete may delegate filing responsibility to a third party for example, an agent or team manager; however, the Athlete remains personally responsible for any Filing Failure or Missed Test resulting from the information or lack of information provided by that third party.

5. Filing Failures and Missed Tests. The purpose of whereabouts requirements is to assist Anti-Doping Organizations in the collection of No Advance Notice Out-of-Competition Samples; the intent is not to create a mechanism to discipline Athletes. Athletes in Registered Testing Pools must follow the whereabouts rules. However, Athletes who make reasonable efforts to follow those rules will not be

disciplined—indeed; lack of negligence on the Athlete's part is always a defense to a possible Filing Failure or Missed Test.

Any combination of three Filing Failures or Missed Tests in an 18-month period will result in an anti-doping rule violation. All International Federation and National Anti-Doping Organization Filing Failures and Missed Tests are counted for this purpose. The sanction for a whereabouts anti-doping rule violation is two years where all three Filing Failures or Missed Tests are inexcusable. Otherwise, the sanction is assessed in the range of two years to one year, based on the circumstances of the case.

There should be no excuse for an Athlete to commit an anti-doping rule violation by accumulating three Filing Failures or Missed Tests. To establish a whereabouts anti-doping rule violation, an Anti-Doping Organization must prove that the Athlete knew that he/she had been included in a Registered Testing Pool; that the Athlete had been advised of the whereabouts requirements with which he/she must comply; and that the Athlete was advised of the consequences of Failure To Comply with those whereabouts requirements. The Athlete must also have received notice of each Filing Failure or Missed Test and the opportunity to administratively contest that notice. In the case of Missed Tests, the Doping Control Officer must have used reasonable efforts in the circumstances to locate the Athlete during the 60-minute window designated by that Athlete. In all cases, apparent Filing Failures or Missed Tests that are not the result of the Athlete's negligence are not counted.