

CHAPTER 13 DISCIPLINARY ACTIONS

RULE 1301 DISCIPLINARY POWERS

RULE 1301.1 PARTICIPANTS

- (1) For the purpose of this Chapter, the expression "Participant" includes a Participating Organisation, registered person(s) of the Participating Organisation or such other person to whom these Rules are directed, unless otherwise expressly provided.
- (2) Where the acts or omissions of a registered person(s), employee or agent of a Participating Organisation would have been subject to these Rules had such acts or omissions been committed by the Participating Organisation, then such acts or omissions shall be deemed to be committed by that Participating Organisation and disciplinary action may be taken against it.

RULE 1301.2 DISCIPLINARY POWERS

- (1) The Exchange may exercise any of the following disciplinary powers:-
 - (a) to reprimand a Participant and to direct whether and if so the manner such reprimand shall be published;
 - (b) to impose a fine on a Participant;
 - (c) to suspend a Participant from trading on or through the stock market of the Exchange on such terms and for such periods as the Exchange shall think fit;
 - (d) to strike off a Participant from the Register of the Exchange on such terms as the Exchange shall think fit; and
 - (e) to impose restrictions on any activities of the Participant on such terms and for such periods as the Exchange shall think fit.

Nothing herein contained shall prevent the Exchange from taking one or more of the above actions against a defaulter.

- (2) The disciplinary powers referred to above may be exercised separately or cumulatively and in no circumstances shall the exercise of such powers prejudice in any way any right that may be vested in the Exchange to seek redress against a Participant.

RULE 1301.3 APPOINTMENT OF COMMITTEE

- (1) The Exchange shall appoint a committee, sub-committee or officer(s) of the Exchange or Exchange holding company to discharge the exercise of its powers under this Chapter.
- (2) The duties and responsibilities of the Committee abovementioned shall include -
 - (a) to preside over matters referred to it relating to disciplinary proceedings instituted against Participants by the Exchange;
 - (b) to require the Participants to be present at the proceedings involving any of its employees;
 - (c) to impose disciplinary and other sanctions, including trading restrictions, on the Participants; and
 - (d) to deal with any other matters as may be directed by the Exchange.

RULE 1302 VIOLATIONS

RULE 1302.1 VIOLATION BY PARTICIPANTS

- (1) Any Participant ("Defaulting Participant") who, in any circumstances, directly or indirectly –
- (a) commits a breach of or violates any of these Rules;
 - (b) has failed to comply with any of the Exchange's decisions, directives, rulings or guidelines (other than those guidelines which are expressed to be non-binding) made under these Rules and/or by the Exchange holding company;
 - (c) violates any provision of the rules of a clearing house or a central depository;
 - (d) is found by the Exchange to be guilty of misconduct;
 - (e) fails to pay, when due, any debt incurred by it to another Participant in respect of any dealing in securities;
 - (f) becomes insolvent;
 - (g) fails to perform his duties efficiently, honestly or fairly;
 - (h) being a Participating Organisation –
 - (i) after becoming aware of any inability on its part to comply with the minimum financial requirements as contained in these Rules, fails to notify the Exchange of such inability;
 - (ii) fails to submit its financial reporting statements or annual audited accounts as required by these Rules within the time prescribed for submission;
 - (iii) provides false representation(s) to the Exchange and/or omits to provide any material information to the Exchange;
 - (i) being a Dealer's Representative –
 - (i) without prejudice to the generality of the foregoing –
 - (aa) falsely declares authentication of an account opening application; or
 - (bb) without proper authority, makes use of another person's particulars of an account;
 - (ii) falsifies particulars of an account;
 - (iii) unlawfully transacts on another person's account;
 - (iv) commits any act in breach of his fiduciary position in respect of the foregoing matters;
 - (v) unlawfully delegates powers or assigns duties properly vested in him to unauthorised person or persons; or
 - (vi) applies any amount paid or securities deposited by a client to any person not entitled thereto or for payment other than the said client's trading account;

shall be liable and be dealt with in accordance with the provisions of these Rules relating to the same.

RULE 1303 DISCIPLINARY PROCEEDINGS

RULE 1303.1 REQUISITE NOTICE

- (1) A Defaulting Participant against whom disciplinary action is proposed to be taken shall be notified by the Exchange of such action in writing ("Requisite Notice").
- (2) The Requisite Notice shall specify the following -
 - (a) the nature and particulars of the charge against the Defaulting Participant;
 - (b) in the case of a hearing on a charge, the time, place and date of the meeting (being not less than fourteen (14) days after the date when such notice is served) when such charge is to be heard.

RULE 1303.2 RESPONSE TO REQUISITE NOTICE

- (1) The Defaulting Participant may respond to the charge by submitting a written response to the Exchange within fourteen (14) days from the date of the notice issued under this Rule.
- (2) Unless otherwise provided in these Rules, where an alleged defaulter warrants, if proven, the suspension or striking off of the Defaulting Participant, the Exchange shall conduct a hearing on the allegation against the Defaulting Participant for which notice under Rule 1303.1(2)(b) has been given, and the Defaulting Participant may attend and be heard at such hearing.
- (3) If the Defaulting Participant fails, within the time stipulated under foregoing Rule to respond to, or appear before, the Exchange, the Exchange may proceed to deal with the charge against the Defaulting Participant.
- (4) The proceedings of the hearing shall be properly recorded.

RULE 1303.3 NOTIFICATION OF DECISION

- (1) Where the Exchange issues a reprimand to, imposes a fine on or suspends the Defaulting Participant, the Defaulting Participant shall be notified in writing of such reprimand, fine or suspension, as the case may be.

RULE 1303.4 APPOINTMENT OF MANAGER OR RECEIVER

- (1) The Exchange may in its absolute discretion appoint a manager or receiver for the purpose of enabling any Defaulting Participant to clear all outstanding contracts entered into with any member of the public or with other Participating Organisations by application to the High Court.

RULE 1304 EFFECT OF DISCIPLINARY ACTION

RULE 1304.1 PERIOD OF PAYMENT AND EFFECT OF NON-PAYMENT OF FINE

- (1) A fine imposed by the Exchange shall be paid by the Defaulting Participant within fourteen (14) days after the date of service of the notice under Rule 1303.3 by the Exchange, failing which the Defaulting Participant shall be immediately suspended from further trading, or as the case may be, from its functions and activities.
- (2) Where the fine remains unpaid seven (7) days after the suspension under the foregoing Rule, the Exchange may at any time thereafter summarily strike the Defaulting Participant off the Register by notice in writing.
- (3) Notwithstanding the suspension or striking off under this Rule 1304.1, the Defaulting Participant shall remain liable to pay the fine and such fine or any portion remaining unpaid shall constitute a debt owing to the Exchange which shall not be discharged until full payment thereof.

RULE 1304.2 EFFECT OF SUSPENSION

- (1) A suspension imposed by the Exchange upon the Defaulting Participant shall -
 - (a) take effect on the date notified in the notice given by the Exchange under Rule 1303.3 ("the said notice");
 - (b) remain for such period as specified in the said notice but the period may be extended by the Exchange for such period as it considers appropriate.
- (2) A Defaulting Participant with access to trade on or through the stock market of the Exchange who has been suspended for any reason shall immediately cease to trade on the Exchange but nothing herein contained shall be construed as releasing or discharging such Defaulting Participant from remaining liable in all respects to fulfil all its obligations pursuant to or under these Rules.
- (3) Notwithstanding Rule 1303, a Participant against whom proceedings are instituted in any Court alleging the commission of any offence arising out of the conduct of business of dealing in securities may, if in the opinion of the Exchange it is desirable to do so in order to protect the interest of the Exchange or the public, be suspended immediately by the Exchange by notice in writing.
- (4) The suspension under Rule 1304.2(3) shall cease upon -
 - (a) the acquittal of the Participant (provided that no appeal is lodged against such acquittal); or
 - (b) withdrawal of the prosecution against the Participant.
- (5) Notwithstanding Rule 1303 -
 - (a) the failure of any Dealer's Representative to honour any duties and obligations directly related to his dealings in securities pursuant to the Standard Remisier's Agreement referred to in Chapter 3; or
 - (b) the bankruptcy of any Dealer's Representative;may result in the automatic suspension of the Dealer's Representative.
- (6) Notwithstanding Rule 1303 -

- (a) the failure of any Participating Organisation to honour any commitments relating to its business of dealing in securities to other Participating Organisations or to any recognised clearing house; or
 - (b) the insolvency of any Participating Organisation,
- may result in the automatic suspension of the Participating Organisation.

RULE 1304.3 STRIKING OFF REGISTER

- (1) A Defaulting Participant found guilty by any Court of a criminal offence involving fraud or dishonesty or of any offence under the Securities Laws or declared insolvent or bankrupt, shall have its/his name struck off the Register summarily by the Exchange by notice in writing.
- (2) The striking off of the Register of a Defaulting Participant shall immediately terminate its privileges as a Participant under these Rules.

RULE 1304.4 PUBLIC NOTIFICATION

- (1) The Exchange shall have the power to publish in the local newspapers, circulars to Participants or any other manner as it deems fit or expedient the name of any Defaulting Participant against whom disciplinary action has been taken.

RULE 1304.5 EXCHANGE TO NOTIFY COMMISSION

The Exchange shall notify the Commission, the Clearing House and the central depository on any default by a Participant and the action taken by the Exchange in respect thereof.

RULE 1305 APPEAL

RULE 1305.1 RIGHT OF APPEAL

- (1) In amplification of Rule 201.3, any Participant against whom a decision has been made by the Exchange on matters referred under this Chapter (in this Rule 1305 referred to as the "appellant") may appeal against such decision by notifying the Exchange of his intention to appeal within fourteen (14) days from receipt of the notification from the Exchange, unless otherwise provided.
- (2) Pending the determination of an appeal under this Rule 1305, the enforcement of any disciplinary action against the appellant with regards to the subject of the appeal shall be suspended until the disposal of the appeal, unless the suspension or striking off under appeal was effected pursuant to Rule 1304.2(5)(b), Rule 1304.2(6) or Rule 1304.3(1).

**RULE 1306 GENERAL PROVISIONS ON
DISCIPLINARY ACTIONS**

RULE 1306.1 PROCEDURES

- (1) The Exchange shall regulate procedures relating to disciplinary actions in such manner as it may in its absolute discretion deem fit or expedient and such procedures may vary to adapt to the circumstances of any particular case.

RULE 1306.2 COST OF PROCEEDINGS

- (1) Without prejudice to the relevant provisions in Chapter 12, the Exchange may at the conclusion of disciplinary actions require a Defaulting Participant to pay or reimburse the Exchange, subject to an internal criteria as approved by the Commission, all costs and expenses incurred by it in connection with such disciplinary action taken against the Defaulting Participant, including but not limited to the costs of the inspection, investigation, hearing, audit fees and legal costs incurred.
- (2) All such costs or fees shall be paid by the parties concerned within fourteen days from date of notice.

RULE 1306.3 RIGHTS OF DEFAULTING PARTICIPANT

- (1) The Defaulting Participant may request for an oral hearing before the Exchange, make submissions and procure the attendance of witnesses to answer the case made against him by the Exchange.

RULE 1306.4 BURDEN OF PROOF

- (1) The Exchange shall not find an allegation proved unless it is satisfied on the balance of probabilities.

RULE 1306.5 DISAPPLICATION

- (1) Disapplication: For the avoidance of doubt, the disciplinary proceedings stipulated in Rule 1303 shall be disapplicable in relation to any actions taken under Rule 201.1(2)(o).
- (2) Representations: Where an action is taken under Rule 201.1(2)(o), a Participating Organisation, a Head of Dealing or a Dealer's Representative may make representations to the Exchange for the discontinuance of the action taken. The Exchange may, after considering the representations made, discontinue with the action taken. However such discontinuance shall not be construed as an omission or error of any kind on the part of the Exchange in undertaking the action under Rule 201.1(2)(o) in the first place.
- (3) Extent of actions: In the event that the Exchange undertakes any of the actions under Rule 201.1(2)(o) directed against a Participating Organisation, a Head of Dealing or a Dealer's Representative or the clients of the Participating Organisation, Head of Dealing or Dealer's Representative, such actions shall also be applicable and be binding to any person who is the proxy, agent, nominee or acting in concert with that Participating Organisation, Head of Dealing or Dealer's Representative or that particular client of the Participating Organisation, Head of Dealing or Dealer's Representative, as the case may be.
- (4) Liability of the Exchange: The Exchange shall not be held liable for any loss or damage suffered by any party arising or in connection with the action taken by the Exchange under Rule 201.1(2)(o).

- (5) Public notification: The Exchange shall have the power to publish in the local newspapers, circulars, and/or any other public medium or in any other mode or manner, as it deems fit or expedient, the action it has taken under Rule 201.1(2)(o).