

PART II

DISCIPLINARY PROCEDURES

4. Disciplinary Proceedings before the Disciplinary Committee

- 4.1 In any case referred to the Disciplinary Committee, in addition to those members of the Disciplinary Committee who have declared an interest under Clause 1.3 of Part II and excused himself from taking any part in the case (unless required to give information or evidence to any Committee), no member of the Disciplinary Appeals Committee shall be permitted to attend any hearing of the Disciplinary Committee whilst it is considering any matter relating to that case.
- 4.2 If the Participant charged wishes to contest the disciplinary proceedings, it shall, within 14 days from being served with a statement of case, submit a statement of defence to the Secretary to the Disciplinary Committee.
- 4.3 If the Participant charged wishes to admit the charges, it shall inform the Disciplinary Committee in writing of that fact within 14 days from being served with a statement of case, and if it so wishes, may at the same time and in the same notification make a plea in mitigation to the Disciplinary Committee. If the Participant charged wishes to make such a plea, it may make it in writing or orally at its option, however, if the plea is made in writing, the Disciplinary Committee may require the Participant charged to attend before it in person to explain its plea. Thereafter the Disciplinary Committee shall decide upon a penalty without the need for a further hearing. The fact that the Participant charged has admitted the charges will of itself be regarded as a mitigating circumstance.
- 4.4 Within 21 days of service of the statement of case by the Secretary to the Disciplinary Committee, the Participant charged and the Enforcement Section shall provide the following, where applicable, to the Secretary to the Disciplinary Committee:-
 - 4.4.1 a list of the witnesses to be called at the hearing; and
 - 4.4.2 copies of the documents to be produced at the hearing.

- 4.5 The Secretary to the Disciplinary Committee shall as soon as practicable after receipt of the list and the documents referred to in Clause 4.4 of Part II forward the same to the Disciplinary Committee, the Participant charged and the Enforcement Section (as the case may be).
- 4.6 After receipt of the list and/or the documents, if any, referred to in Clause 4.4 of Part II, the Disciplinary Committee shall fix a date for the hearing and its Secretary shall notify the Participant charged and the Enforcement Section of the date for hearing.
- 4.7 A notice under Clause 4.6 of Part II shall set out the time, date and place of the hearing and shall be served no later than 14 days before the day fixed for the hearing.
- 4.8 The hearing shall be held in private.
- 4.9 If the Participant charged fails to attend the hearing before the Disciplinary Committee, the Disciplinary Committee may proceed in its absence and dispose of the matter in whatever manner as it sees fit.
- 4.10 At the hearing, the Participant charged and the Enforcement Section shall have the right to call and question witnesses including those called by the other party and to address the Disciplinary Committee; and the Disciplinary Committee may question the witnesses, the Participant charged and the representatives of the Enforcement Section.
- 4.11 After the hearing, the Disciplinary Committee shall consider whether each charge has been proved, and shall notify the Participant charged and the Enforcement Section in writing of its verdict on each charge, its penalty and any award as to costs.

- 4.12 If the Participant charged is found to have committed the offence charged, it may make a plea in mitigation. The plea in mitigation must be made in writing within 5 days from the date of the notification of the verdict of the Disciplinary Committee, save that if the verdict is given immediately upon conclusion of the hearing the plea in mitigation may (at the Participant's choice) be made immediately thereafter and orally. If a written plea in mitigation is made by the Participant charged, the Disciplinary Committee may require the Participant charged to attend before it to explain the plea.
- 4.13 After considering any plea in mitigation, the Disciplinary Committee shall make its decision in writing, containing the verdict and penalty on each charge.
- 4.14.1 If the Participant charged is not satisfied with the decision of the Disciplinary Committee, it may within 14 days of service of the decision require the matter to be referred to the Disciplinary Appeals Committee. In so doing, the Participant charged shall specify that it is dissatisfied with the verdict or the penalty or both.
- 4.14.2 If the Enforcement Section is not satisfied with the decision of the Disciplinary Committee on penalty, it may within 14 days of service of the decision require the matter to be referred to the Disciplinary Appeals Committee.
- 4.14.3 If the Enforcement Section is not satisfied with the decision of the Disciplinary Committee on verdict, it may within 14 days of service of the decision require the matter to be referred to the Disciplinary Appeals Committee for opinion and/or guidelines on points of principles.
- 4.15 If the Participant charged requires the matter to be referred to the Disciplinary Appeals Committee in accordance with Clause 4.14.1 of Part II, the Disciplinary Committee shall produce a reasoned decision in writing, setting out its findings of fact, the reasons for its verdict and any penalty imposed and its Secretary shall issue the same to the Participant charged, the Enforcement Section and the Secretary to the Disciplinary Appeals Committee.

- 4.16.1 In requiring the matter to be referred to the Disciplinary Appeals Committee in accordance with Clause 4.14.1 of Part II, the Participant charged may apply in writing to the Secretary to the Disciplinary Committee for a full transcript of the hearing by the Disciplinary Committee at which all parties are present. A copy of the full transcript, if obtained by the Participant charged, shall be served by it on the Enforcement Section. The costs of producing the full transcript shall be borne by the Participant charged.
- 4.16.2 In requiring the matter to be referred to the Disciplinary Appeals Committee in accordance with Clause 4.14.2 of Part II, the Enforcement Section may request the Secretary to the Disciplinary Committee for a full transcript of the hearing by the Disciplinary Committee at which all parties are present. The Enforcement Section shall cause a copy of the full transcript, if obtained, to be served on the Participant charged.
- 4.17.1 If the Enforcement Section requires a decision of the Disciplinary Committee on penalty to be referred to the Disciplinary Appeals Committee in accordance with Clause 4.14.2 of Part II, the Disciplinary Committee shall produce a decision in writing, setting out its reasons for the penalty and its Secretary shall issue the same to the Participant charged, the Enforcement Section and the Secretary to the Disciplinary Appeals Committee.
- 4.17.2 If the Enforcement Section requires a decision of the Disciplinary Committee on verdict to be referred to the Disciplinary Appeals Committee in accordance with Clause 4.14.3 of Part II, the Disciplinary Committee shall produce a reasoned decision in writing, setting out its findings of fact, the reasons for its verdict and of its penalty imposed and its Secretary shall issue the same to the Enforcement Section and the Secretary to the Disciplinary Appeals Committee.
- 4.18.1 If the Disciplinary Committee after being satisfied that a prima facie case has been established against the Exchange Participant charged in respect of breach of the Clearing Rules, is of the opinion that the penalty to be imposed is expulsion of the Exchange Participant charged from SEOCH, the Disciplinary Committee shall refer the matter to SEOCH for hearing through the company secretary of SEOCH.

4.18.2 If the matter is being referred to the SEOCH in accordance with Clause 4.18.1 of Part II, the Secretary to the Disciplinary Committee shall within 14 days after the decision has been made by the Disciplinary Committee serve on the Exchange Participant charged, the Enforcement Section and the Secretary to the SEOCH:-

- a written notice of the referral; and
- copies of all documents related to the matter.