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Regulations
Chapter 800 Consideration of Offence and Disciplinary Action

801 Consideration of Offence and Disciplinary Action

In considering an offence and imposing the disciplinary action to any persons who violate or take part in the violation of the regulations of TFEX, the Board shall appoint Disciplinary Sub-Committee to performing the duties under these Regulations.

802 Consisting of Disciplinary Sub-Committee

A Disciplinary Sub-Committee shall consist of 5 members, at least one of whom must be a member of the Board, one of whom must be knowledgeable and well experienced in derivatives industry, one of whom must be a legal expert, and one of whom must be the Managing Director or the delegate of the Managing Director.

803 Term and Vacating of Disciplinary Sub-Committee

*Other than the Managing Director or the delegate of the Managing Director, a member of the Disciplinary Sub-Committee shall hold the office for a term of 3 years and shall not continually hold office over 2 terms.

In case that a member of the Disciplinary Sub-Committee vacates his office by rotation, the Board shall appoint a new member of the Disciplinary Sub-Committee. While a new member is not yet appointed, the retiring member shall continue to hold the office in order to perform duties until they are taken by a newly appointed member.

Other than retirement by rotation, the members of the Disciplinary Sub-Committee shall vacate the office upon:

- (1) Death;
- (2) Resignation;
- (3) Dismissal by a resolution of the Board;
- (4) Lack of qualifications under Rule 802

In case that a member of the Disciplinary Sub-Committee vacates his office prior to the expiry of his term, the Board may appoint a replacement member who shall be in the office for the remaining term of the member whom he replaces.

*(*Amended July 1, 2020)*

804 The Meeting of the Disciplinary Sub-Committee

*The Disciplinary Sub-Committee shall elect one of its members to be the Chairman of the Disciplinary Sub-Committee, and, in a meeting of the Disciplinary Sub-Committee, at least one-half of the total number of its members must be present to form a quorum.

*(*Amended April 2, 2007)*

A meeting of the Disciplinary Sub-Committee, if the Chairman of the Disciplinary Sub-Committee is not present or is unable to perform his duties, the Vice-Chairman shall be the chairman of the meeting. If there is no Vice-Chairman or if the Vice-Chairman is not present or is unable to perform the duties, the members present at the meeting shall elect one among themselves to preside over the meeting.

The decision of the meeting shall be made by a majority vote. Each member of the Disciplinary Sub-Committee shall have one vote. In case of the equality of votes, the chairman of the meeting shall have another casting vote.

In case of necessity and urgency, a meeting of the Disciplinary Sub-Committee may be conducted through the placement of signatures of all of its members in a document showing a resolution instead and the decision shall then be made in accordance with the provisions of the third paragraph. Such method, however, shall not apply to the meeting for a resolution to decide as to impose the disciplinary action.

A member of the Disciplinary Sub-Committee who has an interest in a matter being considered is prohibited from participating in the consideration of such matter.

805 The Consideration Process

The consideration process must be finished without delay, provided that the accused must be given an opportunity to clarify and produce evidence to support his clarification as may be suitable for the case.

The clarification under the first paragraph must be made in writing, except where the Disciplinary Sub-Committee permits a verbal clarification in the presence of the Disciplinary Sub-Committee.

In case of a verbal clarification under the second paragraph, the Secretary shall record the clarification and ask the accused to sign his name as evidence.

806 The Authority to Consider an Offence and Impose a Disciplinary Action

The Disciplinary Sub-Committee shall be empowered to consider an offence and impose a disciplinary action on the persons, who violate or take part in the violation of the rules and regulations of TFEX, and to consider and issue any orders in order to implement the regulations, including any other actions with necessary to the considering an offence, imposing the disciplinary action and any other cases approved by the Board, except for the consideration of offences and imposition of disciplinary actions as follows shall be empowered by the Board:

- (1) An order to prohibit any members from trading any types of Derivatives Contracts within the stipulated time;
- (2) An order to prohibit any members from trading all Derivatives Contracts in TFEX within the stipulated time;
- (3) An order to revoke the membership;
- (4) Other cases as stipulated by the Board.

***807 The Appointment of the Secretary of the Disciplinary Sub-Committee**

In order to perform the duties of the Disciplinary Sub-committee, TFEX shall appoint the secretary of the disciplinary sub-committee to be in charge of compiling facts and evidence concerned, examining and proposing opinion concerning the facts and points of law to the Disciplinary Sub-Committee as well as doing any other act for the implementation of these Regulations.

*(*Amended July 14,2009.)*

808 The Duties of the Secretary for Consideration of Accusations or Suspicions

When there appears any accusation or suspicion that makes it credible that the violation or the participation in a violation of the rules and regulations of TFEX has been committed, the Secretary shall consider that fact. If it is found to be well-grounded, the Secretary shall compile the facts and evidence concerned, prepare the opinion together with the reasons and points of law concerned for proposal to the Disciplinary Sub-Committee, and give written notice of the accusation to the accused.

In case where the fact is found to be groundless, the Secretary shall be empowered to give an order to close the case and make a report to the Disciplinary Sub-Committee provided that the Disciplinary Sub-Committee may, if it is deemed expedient, give an order not to close the case and instruct the Secretary to take further action under the first paragraph.

The Secretary shall be the secretary of the meeting of Disciplinary Sub-Committee, except assigning others to be the secretary of the meeting.

809 A Notice of the Accusation

To send a notice of the accusation to the accused, an accusation shall be made in writing and consist of at least the following particular:

- (1) Name and address of the claimant and the accused;
- (2) Act which is a cause of the accusation, together with the facts or circumstances as may be reasonable in connection with such act;
- (3) Citation of provisions in the regulations of TFEX which provide that such act is an offence; and
- (4) Period of time for clearing up the accusation.

810 The Clarification Proceeding

In the consideration process under these Regulations, the accused may either do all acts by himself or execute a power of attorney to authorize another person to act in lieu and the accused shall proceed as the following:

- (1) The accused must lodge a reply to the accusation to the Disciplinary Sub-Committee within 15 days from the date of receiving written notice of the accusation.

(2) The clarification under (1) must be made in writing, except where the Disciplinary Sub-Committee permits a verbal clarification in the presence of the Disciplinary Sub-Committee.

(3) The accused shall submit along with a reply to the accusation all documents and evidence relating to the subject matter of the accusation which the accused adduces to support his dispute or considers as being beneficial to the consideration.

(4) A reply to the accusation under (1) may be lodged with the Secretary or sent by registered mail with return receipt.

In case that a reply to the accusation is sent by registered mail with return receipt, it shall be deemed that the date on which an officer of the post office of origin stamps a postal seal on an envelop of the reply to the accusation is the date of submission thereof.

811 The Issuing of the Receiving of an Accusation

When receiving a reply to the accusation, the Secretary shall issue a receipt or send a written notice of the receipt thereof to the accused, as the case may be.

A receipt or written notice of the receipt of the reply to the accusation under the first paragraph must contain the statement showing the date of receiving the reply and the name of a person lodging the reply.

812 The Late or Incorrect Lodging a Reply to Accusation

In case that the accused fails to lodge a reply to the accusation within the stipulated time under rule 810 (1), the Secretary shall make a report to the Disciplinary Sub-Committee. The Disciplinary Sub-Committee shall then be empowered to consider the offence and make a decision without having to hear a reply to the accusation.

In case that the Secretary deems that a reply to the accusation is incorrect or fails to have complete particulars as stipulated, the Secretary shall give written notice of the incorrectness or incomplete particulars to the accused and stipulate therein the period of time during which the accused must amend or prepare a correct and complete reply to the accusation and re-submit it.

In case that the accused fails to amend or prepare a correct and complete reply to the accusation within the stipulated time under the second paragraph, the provisions in the first paragraph shall apply. Nonetheless, if the accused amends or prepares a correct and complete reply to the accusation and re-submits it within the stipulated time under the second paragraph, it shall be deemed that the accused submits the reply within the stipulated time under rule 810 (1).

In case that the Secretary deems that a reply to the accusation is correct and complete according to rule 810 or in case that the accused fails to lodge a reply to the accusation according to the first paragraph and the third paragraph, the Secretary shall prepare an opinion together with reasons and points of law concerned and propose the same to the Disciplinary Sub-Committee without delay.

813 The Considerations of an Offence and Disciplinary Actions of the Disciplinary Sub-Committee

The Disciplinary Sub-Committee shall complete consideration of an offence within 60 days from the commencement date of consideration of such offence for the first time.

During consideration of the offence, the Disciplinary Sub-Committee may order the Secretary to issue a written notice requiring the accused to meet for an inquiry, to submit additional documentary evidence, or to clarify additional facts concerning the subject matter of the accusation within prescribed time, or may instruct an internal unit of TFEX that is related to the notification of such accusation to submit documentary evidence or make additional clarification.

The counting of period under the first paragraph shall not include the duration as from the date on which the Disciplinary Sub-Committee gives an order under the second paragraph until the date on which the Disciplinary Sub-Committee receives the additional documentary evidence or clarification in full.

In issuing an order concerning the disciplinary action, the Disciplinary Sub-Committee may consider issuing an order according to the opinion of the Secretary or give an order otherwise.

814 The Extension of the Period of Time Concerning the Consideration Process

The Disciplinary Sub-Committee shall be empowered to extend the period of time concerning the consideration process under these Regulations as may be appropriate.

815 The Written Notice of the Disciplinary Sub-Committee Order

When the Disciplinary Sub-Committee completes its consideration and issuance of order concerning the disciplinary action, the Secretary shall give written notice of such order to the accused without delay. Such written notice shall consist of at least the following particulars:

- (1) Name and address of the accused;
- (2) Cause and facts concerning the accusation;
- (3) Content and reasons of the order;
- (4) Effectiveness of the order.

In case that the Disciplinary Sub-Committee gives an order of disciplinary action, the Secretary shall also make a report to the Board.
