

Regulations of TFEX
Chapter 900 Consideration and Decision on Appeal

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Regulations
Chapter 900 Consideration and Decision on Appeal

901 The Consideration and Decision on Appeal

In considering and decision on appeal, the Board shall appoint Appeal Committee to perform the duties under these Regulations.

902 The Consisting of Appeal Committee

In considering an appeal, the Board shall appoint an Appeal Committee consisting of not less than 3 but no more than 5 members, with at least 1 person who is an expert and has high experience in each of the legal, accountancy and finance, and securities business fields, in order to consider and propose opinion concerning an appeal to the board. A member of the Appeal Committee must not be the same one as the person who issues an order of disciplinary action.

903 The Term of the Appeal Committee

*A member of the Appeal Committee shall hold office for a term of 3 years and shall not continually hold office over 2 terms.

In case that a member of the Appeal Committee vacates his office by rotation, the Board shall appoint a new member of the Appeal 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.

*(*Amended July 1, 2020.)*

904 The Vacating of the Appeal Committee

Other than retirement by rotation, the members of the Appeal Committee shall vacate the office upon:

- (1) Death;
- (2) Resignation;
- (3) Dismissal by a resolution of the Board;
- (4) Lack of qualifications under rule 902

In case that a member of the Appeal 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.

905 The authority of the Appeal Committee

The Appeal Committee shall be empowered to consider and adjudge an appeal in order to propose their opinions to the Board for making the consideration and instruction, considering a request for suspension of execution of an order of disciplinary action or considering and issuing any orders in order to implement the rule and regulations of TFEX, including any other actions with necessary to consideration on appeal process.

906 The Meeting of the Appeal Committee

*The Appeal Committee shall elect one of its members to be the Chairman of the Appeal Committee.

In a meeting of the Appeal Committee, at least one-half of the total number of its members must be present to form a quorum.

In a meeting of the Appeal Committee, if the Chairman of the Appeal 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 Appeal 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 Appeal 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 fourth paragraph. Such method, however, shall not apply to the meeting for a resolution to impose or increase the disciplinary action against an appellant.

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

*(*Amended April 2,2007)*

***907 The Appointment of the Secretary of the Appeal Committee**

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

*(*Amended July 14,2009.)*

908 The Lodging an Appeal

In appealing against an order of disciplinary action, a person subject to disciplinary action may either do all acts by himself or execute a power of attorney to authorize another person to act in lieu. A person subject to disciplinary action is entitled to dispute the order of disciplinary action by lodging an appeal with the Appeal Committee within 15 days from the date of receiving written notice of an order of disciplinary action.

An appeal under the first paragraph must be made in writing and signed by the appellant or his attorney-in-fact, as the case may be, and must specify the order of disciplinary action that is the cause of an appeal, the facts, points of law and reasons which are the dispute against any aspect of the order of disciplinary action.

The appellant shall submit along with the appeal all documents and evidence relating to the subject matter of the appeal which the appellant adduces to support his dispute or considers as being beneficial to the consideration of appeal.

909 The Duties of the Secretary

An appeal under rule 908 shall be lodged with the Secretary. When receiving the appeal, the Secretary shall issue to the appellant a receipt which must contain at least the statement showing the date of receiving the appeal and the name of the appellant.

In case of the lodging of an appeal after expiry of the period under the first paragraph of rule 908, the Secretary shall give an order to dispose of such appeal and make a report to the Appeal Committee as well as a written notice to the appellant.

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

In case that the appellant fails to amend or prepare a correct and complete appeal and re-submit it within the stipulated time under the third paragraph, the provisions in the second paragraph shall apply. Nonetheless, if the appellant amends or prepares a correct and complete appeal and re-submits it within the stipulated time under the third paragraph, it shall be deemed that the appellant submits the appeal within the stipulated time under the first paragraph of rule 908.

In case that the Secretary deems that the appeal is correct and complete according to rule 908, the Secretary shall prepare an opinion together with reasons and points of law concerned and propose the same to the Appeal Committee without delay.

The Secretary shall be the secretary of the meeting of the Appeal Committee, except assigning others to be the secretary of the meeting.

910 The Consideration of the Appeal Committee

The Appeal Committee shall complete consideration of an appeal within 30 days from the receiving date of such appeal.

During consideration of the appeal, the Appeal Committee may order the Secretary to issue a written notice requiring the appellant to meet for an inquiry, to submit additional documentary evidence, or to clarify additional facts concerning the subject matter of the appeal within prescribed time, or may instruct an internal unit of TFEX that is related to the order of disciplinary action to submit documentary evidence or make additional clarification.

The clarification under the second paragraph must be made in writing, except where the Appeal Committee permits a verbal clarification in the presence of the Appeal Committee.

In case of the verbal clarification under the third paragraph, the Secretary shall record the clarification and ask the person making the clarification to sign his name as evidence.

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

When the Appeal Committee completes the consideration, the Secretary shall record the opinion and reasons of the Appeal Committee and submit the same to the Board for further consideration and instruction.

911 The Period of time to complete the Consideration

The Board shall complete consideration of an appeal within 30 days from the receiving date of the Appeal Committee's opinion, except for the case of necessary and cannot complete consideration of an appeal within such period of time. The period of time shall be extended but not more than 30 days from the last date of the first period.

If the Board would consider giving an instruction which is different from the opinion of the Appeal Committee, the Board must provide reasons supporting such instruction.

The above consideration and instruction of the Board shall be final.

912 The Notice of the Result

When the Board completes the consideration and instruction, TFEX shall give written notice of the result thereof to the appellant and the SEC. together with reasons supporting the instruction without delay.

913 The Request for the Suspension of the Execution

The lodging of an appeal shall not be a ground to suspend the execution of an order of disciplinary action, but the appellant may submit a request for suspension of execution of such order of disciplinary action along with the lodging of an appeal by specifying therein the reasons showing necessary to suspend the execution of an order of disciplinary action and enclosing a copy of written notice of an order of disciplinary action.

When a request for suspension of execution of an order of disciplinary action is duly submitted, the Secretary shall consider the same urgently and prepare an opinion to the Appeal Committee without delay.

914 The Considering of the Request for the Suspension of the Execution

In case where the Appeal Committee considers and is of the view that the case is of necessary and urgent nature and the request for suspension of execution of an order of disciplinary action has proper reasons, the Board may give an order and prescribe any conditions or collateral as necessary and the Secretary shall give written notice to the appellant, the person issuing the order of disciplinary action, the office of SEC and TFEX internal unit which is related to such order of disciplinary action.

In case where the Board considers and deems it expedient to give an instruction rejecting the suspension of execution of an order of disciplinary action, the Secretary shall give written notice to the appellant and the Office of SEC without delay.
