

**INVESTMENT MANAGEMENT ASSOCIATION OF SINGAPORE**

**BYE-LAWS ON**

**DISCIPLINARY RULES AND PROCEDURES**

**(Issued 7 April 2006)**

**I. OBJECTIVE**

1. These Bye-Laws on Disciplinary Rules and Procedures are established under Clause 44(c) of the Constitution of the Investment Management Association of Singapore, and set out the rules and procedures governing disciplinary sanctions upon Members of the Association, the handling of complaints about the professional conduct of Members and appeals regarding the cessation and termination of membership.

**II. INTERPRETATION**

2. In these Bye-Laws, unless the context otherwise requires:

"**Association**" means the Investment Management Association of Singapore;

"**Breach**" has the meaning ascribed to it in Rule 5(a);

"**these Bye-Laws**" means these bye-laws on disciplinary rules and procedures of the Association binding on Members;

"**Cessation**" means the cessation or termination of membership of a Member of any class under the Constitution;

"**Code and Standards**" means the code of ethics and standards of professional conduct adopted by the Association;

"**Chair of the Professional Conduct Committee**" means the Individual appointed as the chairperson of the Professional Conduct Committee under Rule 7;

"**Chairman**" means the Chairman of the Association;

"**Commencement Date**" means the date when these Bye-Laws were first instituted under the Constitution;

"**Committee**" means the Committee of the Association established under the Constitution;

"**Complainant**" means a Person or an Individual who has lodged a Complaint in accordance with these Bye-Laws;

"**Complaint**" means a statement in writing containing an allegation or representation to the effect that a Member has or may have committed or been engaged in a Breach;

"**Constitution**" means the constitution of the Association in force from time to time;

"**Deputy Chairman**" means the Deputy Chairman of the Association;

"**Individual**" means any individual;

"**Member**" means a member of the Association of any class;

"**Person**" means any partnership, corporation, trust, unincorporated organisation or association, but excluding any Individual;

"**Professional Conduct Committee**" means the Professional Conduct Committee appointed by the Committee pursuant to Clause 67 of the Constitution;

"**Regular Member**" has the meaning ascribed to it in the Constitution;

"**Respondent**" means a Member against whom a Complaint has been made;

"**Rule**" refers to a numbered provision of these Bye-Laws; and

"**Sub-Committee**" means an Investigating Sub-Committee appointed by the Committee under Rule 14.

3. Capitalised words and expressions not defined in Rule 2 shall have the meanings ascribed to them in the Constitution.

### **III. BREACH AND CESSATION**

4. (a) A Member may be subject to disciplinary action under these Bye-Laws if the Member has committed or been engaged in a Breach.  
(b) A Member whose membership has ceased or been terminated may appeal against the Cessation under these Bye-laws.
5. For the purposes of these Bye-Laws:
  - (a) "**Breach**" means:
    - (i) a substantial or persistent breach of or non-compliance with the published Code and Standards;
    - (ii) aiding, abetting, counselling, procuring, inducing or attempting to induce, another Member to engage in or commit conduct described in (i); and

(iii) being knowingly concerned in or a party to conduct described in (i) engaged in or committed by another Member.

(b) "**Cessation**" means:

(i) any termination of membership in the Association of an Associate Member under Clause 19A of the Constitution;

(ii) any termination of membership in the Association of an Affiliate Member under Clause 19AA of the Constitution; or

(iii) any cessation of membership in the Association of any Member under Clause 19AAA of the Constitution.

#### **IV. PROFESSIONAL CONDUCT COMMITTEE**

##### *Professional Conduct Committee*

6. The Professional Conduct Committee has been appointed by the Committee under Clause 67 of the Constitution to hear any case against any Member and impose any disciplinary sanctions upon Members.

7. The Chair of the Professional Conduct Committee shall be appointed in accordance with the bye-laws on the Professional Conduct Committee.

8. Membership of the Professional Conduct Committee is determined in accordance with the bye-laws on the Professional Conduct Committee.

9. The Professional Conduct Committee shall in conducting its disciplinary function act in accordance with these Bye-Laws.

#### **V. THE INVESTIGATION STAGE**

##### *Complaints*

10. Subject to Rule 13, any Complaint shall in the first instance be referred to the Chair of the Professional Conduct Committee.

11. The Chair of the Professional Conduct Committee may refer a Complaint to the Professional Conduct Committee for preliminary consideration and the Professional Conduct Committee may determine by simple majority vote either that the Complaint not be investigated on the grounds that it is frivolous or obviously without grounds or substance, or that the Complaint be investigated. A determination not to investigate a Complaint shall be reported in writing by the Chair of the Professional Conduct Committee to the Respondent and the Complainant.

12. Where, having regard to the interests of the public and the Association, the Chairman, the Deputy Chairman, the Committee or the Professional Conduct Committee, considers it appropriate that a matter relating to the conduct of a Member should be investigated, the Chairman, the Deputy Chairman, the Committee or the Professional Conduct Committee, (as the case may be) shall lodge a Complaint with respect to the matter. Any anonymous complaint shall first be directed to the Professional Conduct Committee which has the discretion to verify such complaint to its satisfaction before considering whether or not it is appropriate that the complaint be formally lodged as a Complaint. In the case of a Complaint by the Chairman, the Deputy Chairman, the Committee or the Professional Conduct Committee, the Complaint shall be lodged with the Chair of the Professional Conduct Committee. In the case of a Complaint by the Chair of the Professional Conduct Committee, the Complaint shall be lodged with a member of the Professional Conduct Committee nominated by the Chairman to be the acting Chair of the Professional Conduct Committee with respect to the matter. A Complaint made under this Rule 12 shall be investigated in accordance with these Bye-Laws.
13. If the Complaint is to be investigated under Rule 11 or 12, the Chair of the Professional Conduct Committee shall refer the Complaint to a Sub-Committee for investigation.

#### ***Investigating Sub-Committee***

#### ***Membership***

14. For the purposes of investigating a particular Complaint, a Sub-Committee shall be established comprising not less than three persons appointed by the Chair of the Professional Conduct Committee from the members of the Professional Conduct Committee. The Chair of the Professional Conduct Committee may, if in their judgement the circumstances so require, appoint, with the approval of the Chairman, an individual, not being a member of the Committee or of the Professional Conduct Committee, to serve as an additional member of the Sub-Committee. Such person may be a non-member of the Association.
15. If the Chair of the Professional Conduct Committee is a member of the Sub-Committee, the Chair of the Professional Conduct Committee shall be chairperson of the Sub-Committee. Otherwise, the Chair of the Professional Conduct Committee shall appoint one of the members of the Sub-Committee to be its chairperson.

#### ***Powers of Sub-Committees***

16. A Sub-Committee may require and receive from the Respondent or any other Member, and may seek and receive from the Complainant or any other Person or Individual, such information or documents as it thinks appropriate and necessary for the work of the Sub-Committee in relation to any particular Complaint. Unless agreed by the Sub-Committee, neither the Respondent nor the representatives of the Respondent shall be present during

any interview or meeting arranged with any other Person or Individual for the purpose of such enquiries.

17. Any Sub-Committee established under Rule 14 shall have power:
- (a) to investigate the particular Complaint for which it is established;
  - (b) to require originals or copies of any documents relevant to the investigation from any Member (whether or not such Member is the subject of the investigation);
  - (c) to require any further information from any Member relating to the subject matter of the investigation;
  - (d) to require any Member to appear before the Sub-Committee to give evidence as to any matter relevant to the subject matter of the investigation; and
  - (e) to obtain any legal or other expert advice and assistance as to any matter relevant to the subject matter of the investigation,

save that no Member shall be required to produce any document or information which is the subject of legal professional privilege.

18. Any Member who fails to comply with the obligations imposed by Rule 17 or who hinders, misleads or frustrates any Sub-Committee in its functions shall be prima facie guilty of Breach.
19. A Sub-Committee may refer conduct or questions relating to the Respondent which were not included in the Complaint to the Chair of the Professional Conduct Committee who may direct the Sub-Committee to investigate or deal with such conduct or questions as part of its existing investigation or may refer the same to another Sub-Committee of the Professional Conduct Committee.

***Sub-Committee determinations***

20. A Sub-Committee shall be empowered to determine that:
- (a) the Respondent has not committed or been engaged in a Breach;
  - (b) the Respondent has not committed or been engaged in a Breach but that concern be expressed in relation to the conduct of the Respondent;
  - (c) the Respondent has committed or been engaged in a Breach and that the Respondent be given a warning in relation to such conduct; or
  - (d) the Respondent has committed or been engaged in a Breach and that action other than a warning is required of the Association,

and in the event that none of the foregoing determinations is made by the Sub-Committee by the requisite majority, the Complaint shall be dismissed. A written report on the determination made in respect of each Complaint shall be made by the Sub-Committee to the Professional Conduct Committee in accordance with Rule 22.

21. A determination of a kind referred to in Rule 20(b), 20(c) or 20(d) shall not be made unless the Sub-Committee has informed the Respondent that it is considering such course of action and the Respondent has been given the opportunity to make representations or submissions to the Sub-Committee in relation to the determination being considered.

#### ***Communication of decisions***

22. The written report on the determination of the Sub-Committee under Rule 20 shall be delivered to the Chair of the Professional Conduct Committee and reported in writing by the Chair of the Professional Conduct Committee to the Respondent and the Committee and, subject to Rule 49, to the Complainant. Such written report shall include the following information:
  - (a) the names of the Complainant and the Respondent;
  - (b) a statement of the formal allegations of the relevant Breach;
  - (c) a statement of the relevant facts that the Sub-Committee regards as material;
  - (d) the manner in which the Complaint was dealt with, including determinations and recommendations of the Sub-Committee; and
  - (e) if relevant, the recommendations of the Sub-Committee as to the action which the Committee should take under Rules 40, 41 and 42 and which the Committee should take under Rule 52, in relation to the matter.

#### ***Appeals to Committee***

23. If the Respondent is dissatisfied with a determination under Rule 20(b), 20(c) or 20(d), the Respondent may give notice in writing to the Chair of the Professional Conduct Committee, not more than 30 calendar days after notice of the determination is served on the Respondent, that it appeals against the determination to the Committee. If the Respondent does not give such a notice, the Chair of the Professional Conduct Committee shall, in writing, warn the Respondent in relation to the conduct which was the subject of the Complaint when the 30-calendar day period has elapsed.
24. Where the Complainant has been notified under Rule 22 and is dissatisfied with a determination under Rule 20(a), 20(b) or 20(c), the Complainant may give notice in writing to the Chair of the Professional Conduct Committee, not more than 30-calendar days after

notice of the determination is received by the Complainant, that it requires the Complaint to be referred to the Committee.

## **VI. APPEALS TO COMMITTEE**

### ***Sub-Committee's report***

25. In the event of a determination under Rule 20(d), or if the Respondent exercises its right of appeal under Rule 23, the Chairman of the Professional Conduct Committee shall prepare a report for the Committee containing the written notice provided by the Respondent and the report prepared by the Sub-Committee. A copy of such report will be sent by the Chair of the Professional Conduct Committee to the Chairman, the Respondent, and, subject to Rule 49, the Complainant.
26. Where the Complainant gives notice in accordance with Rule 24 and within 30 days of giving such notice lodges with the Chair of the Professional Conduct Committee a statement summarising the facts upon which the Complaint relies and the formal allegations of the relevant Breach as formulated by the Complainant, the Chair of the Professional Conduct Committee shall prepare a report for the Committee containing the statement lodged by the Complainant and the report prepared by the Sub-Committee. A copy of such report shall be sent by the Chair of the Professional Conduct Committee to the Chairman, the Respondent and the Complainant.
27. In the event that the Complainant does not lodge a statement under Rule 26 within the period specified in that rule, the Complainant's notice under Rule 24 shall be deemed not to have been given.

### ***Appeal Proceedings to the Committee***

28. Where:
  - (a) the Sub-Committee has determined that the Complaint should be referred to the Committee under Rule 20(d); or
  - (b) the Respondent has lodged notice of appeal against a determination of the Sub-Committee under Rule 23; or
  - (c) the Complainant has given notice in accordance with Rule 24 and lodged a statement in accordance with Rule 26,

the Committee shall proceed to determine the matter in accordance with the following provisions of these Bye-Laws.

### *No prima facie case*

29. Where the Committee, by a simple majority of its members, is of the opinion that the documents presented to it under Rule 25 or 26 do not show a prima facie case of a Breach, the Committee shall dismiss the Complaint without hearing either the Complainant or the Respondent but may nevertheless by simple majority determine that concern be expressed in relation to the conduct of the Respondent. The Committee shall notify its determination and reasons in a report to the Chair of the Professional Conduct Committee, send a copy of its report to the Respondent and, where relevant and subject to Rule 49, to the Complainant.

### *Hearings*

30. If the Complaint has not been dismissed under Rule 29, a hearing before the Committee shall be convened by the Chairman to determine the Complaint. Not less than 60 days' notice of such hearing shall be given to the Chair of the Professional Conduct Committee, the Respondent and, if the Complainant is invited to be a party under Rule 31, the Complainant.
31. Subject to these Bye-Laws [and the rules of natural justice], the Committee shall conduct the hearing in such manner as it sees fit, including by video conferencing or other electronic means. A representative of the Sub-Committee shall present its report under Rule 22 and shall be a party to the proceedings before the Committee. The Committee may invite the Complainant to become a party to the proceedings before the Committee and shall so invite the Complainant if the Complainant has given notice under Rule 24 and the statement under Rule 26. The Respondent shall be entitled to be a party to the proceedings before the Committee. Each party to the proceedings shall be entitled to call and question witnesses, present evidence and information, and make submissions subject to any directions or rules of the Committee.
32. Hearings of the Committee shall be held in private.
33. The Committee may, acting on its own motion or upon the application of any party to the proceedings before the Committee, adjourn the hearing at any time upon such terms as the Committee sees fit.
34. At the hearing, each party, including the Committee, the Professional Conduct Committee and the Sub-Committee, shall, subject to Rule 62, be entitled to be represented by a lawyer or by a Member.
35. Each party must give to the Chairman no later than 21 days before the commencement of the hearing the documents upon which it intends to rely. On the application of any party, the Committee may require the disclosure to that party of documents disclosed by the other party if the Committee considers that they are relevant and that it is fair in all the circumstances that the documents should be so disclosed. The Committee shall not require the production of any document which is the subject of legal professional privilege.

36. If a party challenges the authenticity of any document put before the Committee, the Committee shall consider and rule on the objections raised by such party (and any evidence raised in rebuttal), and may, on the basis of such representations, give the evidence contained in such documents such weight as it thinks fit.
37. In a hearing before the Committee that involves the decision of a court or tribunal that relates to the Respondent:
  - (a) the fact that the Respondent has been convicted of a criminal offence may be proved by producing a certified copy of the certificate of conviction relating to the offence;
  - (b) the finding and sentence of any tribunal exercising a professional disciplinary jurisdiction may be proved by producing a certified record of the finding and sentence; and
  - (c) the judgment of any civil court may be proved by producing a certified copy of the judgment.

In any of the cases set out in this Rule, the findings of fact by the court or tribunal upon which the conviction, finding, sentence or judgment is based shall be admissible as conclusive evidence of those facts, unless otherwise determined by the Committee.

38. The Committee may at any time before or during the hearing direct that an allegation of a Breach or any particulars of such allegation shall be amended, provided that:
  - (a) the Committee is satisfied that the Respondent will not be substantially prejudiced in the conduct of its defence by the making of such an amendment; and
  - (b) the Committee shall, if so requested by the Respondent, adjourn for such time as is reasonably necessary to enable the Respondent to consider and respond to the allegation as so amended.
39. A Respondent may make an admission of a Breach at or prior to the hearing of the Committee. Such admission made prior to the hearing shall be made in writing by the Respondent to the Chairman.

#### ***Determinations of the Committee***

40. Following the completion of (a) a hearing or (b) the receipt of a report prepared under Rule 22 where there is a determination of the kind referred to in Rule 20(d) and no notice of appeal has been given in accordance with Rule 23 or 24, the Committee shall by a majority of votes of its Committee Members make a determination of the kind referred to in Rule 20(a), 20(b) or 20(c). The Committee shall by a majority of not less than 75 per cent. of its Committee Members make a determination of the kind referred to in Rule 20(d) that the Respondent has committed or been engaged in a Breach and that the Respondent:

- (a) be reprimanded; or
- (b) be suspended as a Member for such period, not exceeding two years, as the Committee shall specify; or
- (c) be expelled as a Member.

In the event that none of the foregoing determinations is made by the Committee by the requisite majority, the Complaint shall be dismissed.

- 41. As a condition of any determination under Rule 40, by decision of a simple majority of the members of the Committee, the Committee may require the Respondent to enter into an enforceable undertaking. If the Respondent breaches such an undertaking, the Respondent may be guilty of a Breach and further disciplinary proceedings may be commenced against the Respondent under these Bye-Laws.
- 42. The Committee may by simple majority of its members order:
  - (a) the Respondent to make such contribution to the Association or the Complainant's costs of the proceedings; or
  - (b) the Association to make such contribution to the Respondent's or the Complainant's costs of the proceedings;as it thinks fit.
- 43. If the determination of the Committee is that the Respondent be suspended as a Member under Rule 40(b), or expelled as a member under Rule 40(c), the Committee may determine by a simple majority of its members that the Respondent be suspended as a Member or expelled from the Association with effect from the date on which its determination is communicated to the Respondent under Rule 45. In the absence of such a determination, the Respondent's suspension or expulsion shall take effect immediately.
- 44. Any costs ordered to be paid by the Respondent shall be paid within 30 days of the receipt of the Committee's determination by the Respondent. If the Respondent does not pay the costs ordered in such time, the Respondent may be declared by the Association to be a defaulter and after being so declared shall cease to be a Member but may be reinstated upon such terms and conditions as the Committee determines.

#### ***Communication of Committee determinations***

- 45. The Committee shall communicate its determination to the Respondent, the Chair of the Professional Conduct Committee and, subject to Rule 49, the Complainant, by notice in writing signed by the Chairman. The notice to the Respondent shall, if it is the Committee's determination, include an expression of the Committee's concern, a warning, or a

reprimand, in relation to the conduct of the Respondent. All such notices shall include the reasons for the determination, the names of the members of the Committee, whether the determination was unanimous and, in the event of a non-unanimous determination, the numbers (but not the names) of Committee members voting in favour of the determination.

46. The determination of the Committee shall be final.

## **VII. APPEALS ON CESSATION OF MEMBERSHIP**

47. A Member whose membership has been terminated under Clause 19A or 19AA by the Association or has ceased under Clause 19AAA may file a notice of appeal against the Cessation in accordance with Clause 19B of the Constitution.

48. The Chair of the Professional Conduct Committee shall, on receipt of any notice of appeal by a Member (referred to in this Rule as the "appellant") against a Cessation, refer the appeal to the Professional Conduct Committee for decision. The Professional Conduct Committee shall be empowered to:

- (a) investigate the Cessation;
- (b) require originals or copies of any documents relevant to the investigation from any Member (whether or not such Member is the appellant);
- (c) require any further information from any Member relating to the subject matter of the investigation;
- (d) require any Member to appear before the Professional Conduct Committee to give evidence as to any matter relevant to the subject matter of the investigation;
- (e) obtain any legal or other expert advice and assistance as to any matter relevant to the subject matter of the investigation; and
- (f) determine (acting by a simple majority of those present and voting) within 60 days of the receipt of the relevant notice of appeal that the Cessation shall be confirmed or rejected,

provided that no Member shall be required to produce any document or information which is the subject of legal professional privilege. The Professional Conduct Committee shall communicate its determination to the Committee and the appellant by notice in writing signed by the Chair of the Professional Conduct Committee, including the reasons for the determination. If the determination is to confirm the Cessation, then the Cessation shall take effect as the date of such notice. If the determination is to reject the Cessation, then the appellant shall be reinstated as a Member with effect from the date of such notice.

## **VIII. CONFIDENTIALITY**

49. When a Complaint is made, the Chair of the Professional Conduct Committee may in its discretion request that the Complainant agree in writing to keep confidential information provided to the Complainant on a confidential basis concerning the application of the disciplinary process to the Respondent. If in such a case the Complainant fails to provide such written agreement, the Chair of the Professional Conduct Committee and the Chairman may determine not to provide the Complainant with any confidential information concerning the application of the disciplinary process to the Respondent.
50. Except as provided in these Bye-Laws, in particular, under Rules 52 to 54 inclusive:
- (a) the deliberations of the Committee, the Sub-Committee and the Professional Conduct Committee, including their records and minutes, are confidential. Meetings of the Committee, the Sub-Committee and the Professional Conduct Committee may only be attended by their members and by any other person entitled or invited to attend; and
  - (b) all Members present at a meeting or hearing of the Committee, the Sub-Committee or the Professional Conduct Committee shall be personally bound to uphold the confidentiality of the deliberations and of any information obtained in connection with such a meeting, whether verbal or in written form, and whether obtained before, during or after such a meeting.
51. Notwithstanding the provisions of Rule 50, the Chair of the Professional Committee and the Chairman may communicate any information concerning the activities of their respective bodies and the matters being considered by them to the members of the Committee at their discretion.

## **IX. PUBLICITY**

52. If:
- (a) a Sub-Committee decides to make a report to the Committee under Rule 20(d); or
  - (b) a Complaint is referred to the Committee by the Complainant under Rule 24, and the Complainant lodges a statement under Rule 26,
- the Committee may, at its discretion, and after having taken account of any recommendation by the Sub-Committee in its written report under Rule 22, publish to Members, government agencies and the media such information about the matter (but not the identity of the Respondent or the Complainant), as it thinks fit.
53. If the Respondent is reprimanded, suspended or expelled in accordance with these Bye-Laws, the Committee may at its discretion publish to Members, government agencies and the media the name of the Respondent and particulars of the Breach committed or engaged in by the Respondent together with such other information as it deems appropriate.

54. The Council shall report annually to Members such information in relation to the activities of the Professional Conduct Committee, and any proceedings before any Sub-Committees during the year, as the Committee deems appropriate.

#### **X. CONFLICT OF INTEREST**

55. Members of the Professional Conduct Committee must not participate in any matter in respect of which they are or would be in a position of conflict of interest. If the Chair of the Professional Conduct Committee is in such a position, the Chairman shall nominate another member of the Professional Conduct Committee to be acting Chair of the Professional Conduct Committee for the purposes of the particular matter.
56. A member of a the Committee who becomes aware of grounds for such Member's own removal, whether from conflict of interest or otherwise, must so declare as soon as possible. The Chairman shall have the power to reconstitute the relevant body in accordance with these Bye-Laws in order that such member should be replaced.

#### **XI. GENERAL PROVISIONS**

##### *Transitional*

57. Unless the Respondent otherwise agrees, any Complaint made prior to the Commencement Date and any appeal pending as at that date shall continue to be governed by the provisions of the Constitution in force immediately prior to the Commencement Date.

##### *Regulations*

58. The Committee may from time to time make and vary such regulations (not being inconsistent with the provisions of the Constitution or these Bye-Laws) as it may consider necessary for the implementation of these Bye-Laws and for the performance by the Professional Conduct Committee, and the Sub-Committee of their respective functions under these Bye-Laws.

##### *Proceedings in general*

59. Subject to these Bye-Laws, the Professional Conduct Committee, a Sub-Committee, and the Committee (as the case may be) may give all such directions and make rules with regard to the conduct of meetings or proceedings before it as it considers most suitable for the clarification of the issues and generally for the just handling of the meeting or proceedings. The Professional Conduct Committee, the Sub-Committee, and Committee shall not be bound by any enactment or rule of law relating to the admissibility of evidence in a court of law.

### ***Custody of records***

60. The Secretary shall arrange appropriate custody of the records of the Professional Conduct Committee.

### ***Non-member engagement***

61. Any non-Member appointed to serve on a Sub-Committee, or Professional Conduct Committee and any legal adviser engaged to represent or assist a Sub-Committee, or the Professional Conduct Committee shall be engaged on such terms (including remuneration) as the Committee or the Chairman shall determine.

### ***Representation at Hearings***

62. If any party to a disciplinary hearing wishes to be represented by a lawyer or a Member at the hearing of a Sub-Committee or the Committee, that party shall give notice of this desire to the Chair of the Professional Conduct Committee, at least 21 days before the hearing. If the Sub-Committee or the Committee, as the case may be, is satisfied that a Member has had reasonable notice of a hearing, the proceedings at the hearing shall be valid and of full effect, notwithstanding that the Respondent does not attend or state his or her case in person or is not represented.

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