

## SECTION 2

### RESOLUTION OF DISPUTES BETWEEN TRADING PARTICIPANTS AND CLIENTS

#### Definitions

For the purpose of Section 2 of these Rules;

- Complainant : means a party making a complaint to the CSE over dissatisfaction with the decision of a Compliance Officer of his/her Stockbroker or the manner in which the complaint was looked into by the Stockbroker.
- Compliance Officer : means an officer of the Trading Participant appointed in terms of Rule 4.1.2 (2) of the Trading Participant Rules.
- Date of Complaint : means the date on which the Client submits a written complaint to the Compliance Officer.

#### **2.1 Complaint to be made to the Compliance Officer of the Trading Participant who is a Stockbroker**

2.1.1 Any Client having a complaint against a Trading Participant who is a Stockbroker in respect of dealings with the Trading Participant shall, in the first instance, direct such complaint in writing to the Compliance Officer within a period of thirty (30) days from the date of the disputed transaction/s or any other breach of obligations by the Stockbroker in terms of the Trading Participant Rules of the CSE.

Provided however, that in exceptional circumstances, a Client may make a complaint later than thirty (30) days but no later than forty five days (45) days from the date of the disputed transaction/s or any other breach of obligations by the Stockbroker.

For the purpose of this rule,

- exceptional circumstances may include the following and the burden of proof of establishing exceptional circumstances shall lie with the Client:
  - (a) the Client has been diagnosed with a critical illness and/or has been hospitalized during the relevant time period;
  - (b) demise of an immediate family member of the Client during the relevant time period;
  - (c) the Client was not in the country during the relevant time period and did not have an opportunity to inform his/her Stockbroker regarding the same;
  - (d) any other reason which, in the reasonable opinion of the Stockbroker, has prevented the Client from making a complaint within the permitted period of time, including the instances where the Client did not gain knowledge or was not in a position to gain knowledge regarding the disputed transactions.
- “an immediate family member” shall mean the spouse, children below eighteen (18) years and parents of the Complainant.

2.1.2 The Compliance Officer shall inquire into the complaint and make a decision thereon within a period of thirty (30) days from the Date of Complaint. The Compliance Officer shall communicate such decision in writing, with reasons, to the Client not later than seven (7) days from the date of the decision.

- 2.1.3 If the decision of the Compliance Officer requires any remedial action by the Stockbroker, such action shall be complied with promptly and no later than fourteen (14) days from the date on which such decision was conveyed to the parties.

## **2.2 Referral to the CSE Panel for Mediation**

- 2.2.1 If a Complainant is dissatisfied with a decision of the Compliance Officer or the manner in which the complaint was inquired into by the Compliance Officer, he/she shall refer the complaint or any part thereof to the CSE for mediation by a Panel comprising of at least three (03) senior officials of the CSE who shall be appointed by the Chief Executive Officer of the CSE (CEO) (hereinafter referred to as the "CSE Mediation Panel") within a period of fourteen (14) days from the date on which the decision of the Compliance Officer was conveyed to him/her.

Provided however, that the CSE Mediation Panel may, in its absolute discretion, entertain a complaint for mediation which is received past the said deadline but not later than forty five days (45) days from the date of the decision of the Compliance Officer if it is of the opinion that the Complainant was prevented from making such a reference for mediation due to reasons beyond his/her reasonable control.

- 2.2.2 If a Complainant has not first referred his/her complaint to the Compliance Officer prior to referring it to the CSE for mediation, the CSE shall refer the complaint to the Compliance Officer of the Stockbroker to be dealt with as provided in Rule 2.1.1, subject to the condition that the Complainant could refer the complaint to the CSE if he/she is dissatisfied with the decision taken by the Compliance Officer.

Provided however, if the complaint to the CSE is made after the expiry of thirty (30) days from the disputed transaction/s, the CSE Mediation Panel may direct a Complainant to the Compliance Officer only if there are exceptional circumstances.

Provided further that the CSE Mediation Panel shall not in any circumstances entertain the complaint as provided for in Rule 2.2.2 after the lapse of forty five (45) days from the date of the disputed transaction/s.

- 2.2.3 The decisions of the CSE Mediation Panel in terms of Rules 2.2.1 and 2.2.2 above shall be final and conclusive.
- 2.2.4 The manner in which complaints are to be made to the CSE and the procedure to be followed by the CSE Mediation Panel in mediating any complaint shall be in accordance with the procedure approved by the Board of Directors of the CSE and published on the website of the CSE.
- 2.2.5 The CSE Mediation Panel shall conclude every mediation within a period of forty five days (45) days from the date that the CSE receives the complaint from the Complainant.

Provided that any timeline set out herein for the conclusion of a mediation may be extended by the CSE Mediation Panel with the consent of the Parties to the dispute.

- 2.2.6 Any settlement arrived at by the Parties at a mediation shall be recorded in writing and signed by the parties. If the Parties are unable to agree to a settlement pursuant to mediation for any reason, the CSE Mediation Panel shall issue a "Certificate of Non-settlement" addressed to the Parties within the aforesaid timeline.

2.2.7 The CSE Mediation Panel shall issue the terms of settlement resulting from a mediation or a "Certificate of Non-Settlement" in writing to the Parties (as applicable) within seven (7) days from the date of concluding the mediation process in terms of Rule 2.2.5 above.

2.2.8 The terms of the settlement so conveyed shall be complied with by the respective party/parties promptly and no later than fourteen (14) days from the date on which such terms were conveyed to the Parties by the CSE Mediation Panel unless the settlement provides for other specific dates for compliance.

### **2.3 Referral to the Dispute Resolution Panel against a decision of the CSE Mediation Panel**

2.3.1 Any party to a complaint which is not settled pursuant to mediation by the CSE Mediation Panel (hereinafter referred to as the 'Claimant') may request the CSE in writing to refer the complaint to the Dispute Resolution Panel within fourteen (14) days of the issue of the Certificate of Non-Settlement referred to in Rule 2.2.6. A copy of such request shall be simultaneously served on the other party(ies) (who shall hereinafter be referred to as the 'Respondent').

Provided that if a Certificate of Non-Settlement is not issued to the parties to the dispute by the CSE Mediation Panel as required in terms of these Rules for any reason, any aggrieved party may request the CSE, in writing, to refer the complaint to the Dispute Resolution Panel within fourteen (14) days after the expiry of the time period specified in Rule 2.2.5 above for the CSE Mediation Panel to communicate the terms of settlement or issue the Certificate of Non-settlement to the parties.

Provided further, that the Dispute Resolution Panel may, in its absolute discretion, entertain a complaint which is received beyond the specified timelines but not later than forty five (45) days from the respective deadlines (as applicable), if it is of the opinion that the Claimant was prevented from making such complaint due to reasons beyond his/her reasonable control.

2.3.2 Any party aggrieved by the counterparty's failure to comply with the terms of settlement by the date provided in terms of Rule 2.2.7 may make a written request to the CSE to refer the complaint to the Dispute Resolution Panel within fourteen (14) days of such default.

The form and procedure of a referral to the Dispute Resolution Panel shall be in accordance with the procedure approved by the Board of Directors of the CSE and published on the website of the CSE.

2.3.3 The Dispute Resolution Panel shall hear and resolve the referral in terms of Section 3 of these Rules.