

Asian Institute of Chartered Bankers

Complaints and Investigation Regulations

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1. Commencement and Purpose

- 1.1 These regulations were made by the Council under Article 41(1) of the Institute's Constitution and shall come into effect on 27.09.2017.
- 1.2 These regulations set out the procedures for the initial assessment and investigation of any complaint against Individual Members of the Institute. In these regulations, any reference to "Member" means Individual Member.

2. Interpretation

- 2.1 In these regulations, unless the context otherwise requires, words and expressions used have the same meanings as defined in the Institute's Constitution and bye-laws, and:

alleged breach means an occurrence of any one or more of the events described in bye-Law 47 in respect of which a formal complaint is made.

bye-laws means the bye-laws made or as amended from time to time by the Council under Article 85 of the Constitution.

complaint has the meaning given in bye-law 49(1).

complainant means any person who brings a complaint to the attention of the Chief Executive Officer.

Constitution means the Constitution of the Institute, as amended from time to time.

Council means the Council of the Institute.

Disciplinary Committee means a Disciplinary Committee appointed by the Disciplinary Panel Chairman under bye-law 58(1).

Disciplinary Panel means the Disciplinary Panel appointed by the Council under bye-law 57.

formal complaint means a complaint referred by the Chief Executive Officer to a Disciplinary Committee under bye-law 53(6).

Institute means the Asian Institute of Chartered Bankers.

joint disciplinary scheme means any disciplinary scheme established jointly by the Institute and one or more other professional bodies pursuant to Article 4(c) of the Constitution.

Professional Conduct Officer means the staff of the Institute charged with the responsibility of considering and investigating complaints and performing any other functions as may be delegated by the Chief Executive Officer.

3. Making of a Complaint

- 3.1 Any complaint made by a Member or a member of the public, or a complaint initiated by a committee or staff of the Institute, concerning the conduct of an Individual Member shall be made to the Chief Executive Officer ("CEO").
- 3.2 All complaints shall be in writing using the complaint form set out in Appendix 1 (which is available at the Institute's website) and accompanied by relevant documents which support the complaint. The complaint shall include an undertaking by the complainant to keep the complaint and all matters related to it confidential.
- 3.3 A complainant may subsequently withdraw a complaint by giving notice in writing to the

CEO. However, if the CEO is of the opinion that the Member concerned has a case to answer, he may continue to deal with the complaint in accordance with the bye-laws and these regulations.

4. Initial Assessment of Complaint

4.1 The initial consideration of a complaint shall be undertaken by the Professional Conduct Officer (“PCO”).

4.2 On receipt of a written complaint, the PCO shall send acknowledgement of receipt to the complainant and shall enquire of the complainant if the complainant consents to his identity being disclosed. The PCO shall additionally inform the complainant that if the complainant wishes not to have his identity disclosed, the PCO may not be able to proceed with the investigation of the whole or part of the complaint.

4.3 The PCO shall determine whether the complaint is to be dealt with under the Institute’s bye-laws or referred to a joint disciplinary scheme established by the Institute and other professional body or bodies. A complaint shall be referred to a joint disciplinary scheme where the Member concerned is subject to it:

- (a) by virtue of holding dual membership, namely membership of the Institute and of the professional body which participates in the joint disciplinary scheme; and
- (b) the subject of the complaint renders the Member liable to disciplinary action under the joint disciplinary scheme.

4.4 If the PCO determines, pursuant to regulation 4.3, that the complaint is to be referred to a joint disciplinary scheme, he shall forthwith refer the complaint to the scheme to be dealt with in accordance with terms of the scheme.

4.5 Where the complaint is not referred to a joint disciplinary scheme under regulation 4.4, the PCO shall assess and determine whether the complaint is appropriate for investigation by the Institute in accordance with bye-law 52(3). The PCO shall consider whether:

- (a) the complaint falls within the jurisdiction of the Institute;
- (b) the matter is currently being considered by a court of law, regulatory tribunal or professional body;
- (c) the matter is one that should reasonably be dealt with by the Member’s employer; or
- (d) the complaint is vexatious or frivolous.

In making such determination, the PCO may require the complainant and/or Member concerned to provide such further information and/or documents as he considers necessary.

4.6 The PCO shall proceed to investigate the complaint in accordance with regulation 5.1 if, pursuant to regulation 4.5, he determines that the complaint:

- (a) falls within the jurisdiction of the Institute;
- (b) does not relate to a matter referred to in regulation 4.5(b), 4.5(c) or 4.5(d); and
- (c) discloses sufficient grounds that the Member concerned may have become liable to disciplinary action under the bye-law 47.

4.7 The PCO shall take no further action with respect to the complaint if, pursuant to regulation 4.5, he determines that:

- (a) the complaint does not fall within the jurisdiction of the Institute (for example the

complaint concerns a person who is not a Member of the Institute or the complaint ought to be considered by another professional body or a regulator);

- (b) the complaint relates to a matter referred to in regulation 4.5(b), in which case the investigation into the complaint may commence after the conclusion of the processes of the court of law, regulatory tribunal or professional body, as the case may be; or
- (c) the complaint relates to a matter referred to in regulations 4.5(c) or 4.5(d).

4.8 The PCO shall as soon as practicable notify the complainant and the Member concerned in writing of his decision pursuant to regulation 4.7 and the reasons for the decision.

4.9 If the complainant is dissatisfied with the decision of the PCO under regulation 4.7, he may notify the Institute in writing of the same and of any further representations he wishes to make in relation to the complaint. Provided that such further representations have been received within 28 days from the date of the notification to the complainant under regulation 4.8, the PCO shall refer the complaint to the CEO for consideration. The CEO may uphold the decision of the PCO that no further action be taken or decide that the complaint is appropriate for investigation by the Institute. The decision of the CEO shall be final.

5. Investigation of Complaint

5.1 Where a complaint is assessed to be appropriate for investigation pursuant to regulation 4.6 or 4.9, the PCO shall:

- (a) notify the Member concerned in writing of the nature of the complaint and provide such details and information relating to the complaint as the PCO considers appropriate; and
- (b) request the Member to provide written explanations with respect to the matters referred to in the complaint together with any supporting documents within 14 days of the receipt of such request.

5.2 Where any facts or matters come to the attention of the CEO by any means whatsoever (for example as a result of being reported in the national press or media), indicating that an Individual Member may have become liable to disciplinary action under the bye-laws, the CEO shall reduce such facts or matters into a written complaint and shall send the complaint to the PCO. The PCO shall deal with the complaint in accordance with regulations 4.3 to 4.8 above. If the PCO proceeds pursuant to regulation 4.6 above, the PCO shall:

- (a) send a copy of the complaint to the Member concerned and provide such details and information relating to the complaint as the PCO considers appropriate; and
- (b) request the Member concerned to provide written explanations with respect to the matters referred to in the complaint together with any supporting documents within 14 days of the receipt of such request.

5.3 If the Member concerned fails to provide reasonable explanations in writing within the period of time as set out in regulation 5.1 or 5.2 (as applicable), or such longer period as the PCO may allow, the PCO may proceed to consider the complaint based on the material before him without further communication with the Member.

5.4 The PCO may at any time during the investigation process request the Member concerned or the complainant to provide further information and such documents in respect of the complaint as the PCO considers necessary. Where such request is made:

- (a) the Member must provide the relevant information and documents within 14 days (or such longer period as the PCO may allow) of the receipt of such request, failing which, the Member will be in breach of this regulation, which breach shall be dealt with

concurrently with the complaint;

- (b) the complainant must provide the relevant information and documents within 14 days (or such longer period as the PCO may allow) of the receipt of such request, failing which, the PCO may proceed to consider the complaint based on the material laid before it without further communication with the complainant. If the complainant is a Member and unreasonably withholds such relevant information and documents as requested by the PCO, the complainant shall be in breach of this regulation and disciplinary action may be taken against him.

5.5 The PCO may from time to time seek legal advice from an advocate and solicitor on a legal panel pre-approved by the Council and obtain such other expert advice as the PCO considers necessary to assist him in the investigation of the complaint.

5.6 The rules of judicial evidence will not apply. The PCO may at his discretion treat as evidence any testimony whether in written or other forms.

5.7 Once the PCO has completed his investigation, he shall prepare a report containing:

- (a) the complaint received under regulation 3.2 or the complaint made under regulation 5.2 (as applicable);
- (b) a summary of the facts and matters which were considered by the PCO;
- (c) a summary of any representations made by the Member concerned under regulation 5.1 or 5.2 (as applicable);
- (d) the documents received and considered during the investigation;
- (e) a recommendation as to whether the Member concerned is liable to disciplinary action and supporting reasons.

The PCO shall submit his report to the CEO as soon as practicable.

5.8. Where any complaint is initiated by the PCO concerning the conduct of an Individual Member, the complaint shall be made in writing to the PCO and the CEO shall appoint another PCO to carry out the functions associated with the initial assessment and investigation of the complaint.

6. Determination of Complaint

6.1 The CEO shall consider the PCO's report and determine whether there is a prima facie case to answer against the Member concerned. Before making such determination, the CEO may direct the PCO to make further enquiries and/or carry out further investigation as he considers appropriate.

6.2 A Member shall be considered to have no prima facie case to answer in respect of a complaint if there is insufficient evidence on the balance of probabilities to support the complaint.

6.3 If the CEO determines that there is a prima facie case to answer against the Member concerned, he shall notify the Disciplinary Panel Chairman of the same.

6.4 If the CEO determines that there is no prima facie case to answer against the Member concerned, he shall dismiss the complaint. The CEO shall:

- (a) notify the Member concerned and the complainant in writing of his decision together

with such explanation as he thinks appropriate; and

(b) direct the PCO to close the file in respect of the complaint.

6.5 The PCO shall prepare a record of the CEO's decision and the reasons for the decision under regulation 6.3 or 6.4 (as applicable).

7. Referral to Disciplinary Committee

7.1 Where the CEO notifies the Disciplinary Panel Chairman pursuant to regulation 6.3, the Disciplinary Panel Chairman shall forthwith appoint a Disciplinary Committee.

7.2 As soon as a Disciplinary Committee is appointed by the Disciplinary Panel Chairman under bye-law 58(1), the CEO shall:

(a) send to the Disciplinary Committee the formal complaint setting out the particulars of the alleged breach(es), a copy of the record of the CEO's decision including a summary of the facts and matters on which the decision was based, a copy of any information and documents that are relevant to the complaint together with a summary or copy of any representations made by the Member concerned;

(b) notify the Member concerned in writing that there is a prima facie case to answer and a formal complaint has been referred to the Disciplinary Committee, and send to the Member a copy of the formal complaint together with the documents referred to in regulation 7.2(a).

7.3 The PCO shall inform the complainant in writing of the referral of the complaint to a Disciplinary Committee for consideration.

8. Deferral of Proceedings

8.1 Bye-law 55 provides that the PCO may at his discretion, or upon written application by the Member concerned, defer the investigation of the complaint if he is of the opinion that it is justified in all the circumstances. Such circumstances may include:

(a) the subject of the complaint is currently before a court of law, regulatory tribunal or professional body;

(b) the Member concerned being too ill to participate in the disciplinary process.

8.2 If the PCO decides that the investigation of a complaint be deferred under regulation 8.1(a), either upon the written request by the Member concerned or if the PCO otherwise decides it is appropriate to do so in the interests of justice, further investigation of the complaint shall recommence upon the conclusion of the legal or disciplinary processes of the court of law, regulatory tribunal or professional body (as applicable).

8.3. If the Member concerned by written notice to the PCO requests that the investigation of the complaint be deferred on the grounds that he is too ill to participate in the disciplinary process, the Member shall within seven days of such request submit a current medical report to support his request, including a prognosis and indication as to when, if at all, he will be well enough to participate in the disciplinary process.

8.4. If pursuant to regulation 8.3 the PCO is satisfied that the Member concerned is unfit to participate in the disciplinary process or if the Member is incapacitated, the PCO may defer the investigation of the complaint until such time when the Member is fit to participate in the process in accordance with regulation 8.1(b).

8.3 The PCO shall inform the Member concerned and the complainant of any deferral of the investigation of the complaint and the reasons thereof.

9. Application for Interim Suspension of Membership

9.1 Bye-law 56(1) provides that the PCO may, at any time during the investigation of a complaint, recommend to the CEO that the Member concerned be suspended from membership on an interim basis pending further investigation and determination of the complaint.

9.2 If the CEO is of the opinion that the facts and matters that have been brought to his attention establish that the Member concerned has been charged with a criminal offence by a court of law and has either:

- (a) been remanded in custody on that charge; or
- (b) pleaded guilty to or been found guilty of such an offence,

the CEO may notify the Disciplinary Panel Chairman who shall appoint a Disciplinary Committee for an order to suspend the Member concerned on an interim basis. The CEO shall set out the basis on which such application is made and provide supporting evidence.

9.3 Where CEO makes an application for the interim suspension of membership, he shall:

- (a) notify the Member concerned in writing of his decision and the reasons for his decision;
- (b) notify the complainant in writing that an application for the interim suspension of the Member concerned is being made to a Disciplinary Committee.

9.4 Where an application under regulation 9.2 results in the interim suspension of the Member concerned, the PCO shall use all reasonable endeavours to expedite determination of the substantive matters of the complaint that give rise to the interim suspension.

10. Report of Decision to Council

10.1. The CEO shall report his decision pursuant to regulation 6 or application pursuant to regulation 9.2 in respect of any complaint to the Council and shall cause the same to be duly recorded.

11. Service of Notices and Documents

11.1. Any notice or other document required to be served on the Member concerned under these regulations may be sent by registered post or courier to his address as entered in the Register of Members or which has been notified by him in writing to the Institute, or by email as provided in regulation 11.5.

11.2. Any notice or other document required to be served on the complainant under these regulations may be sent to him by registered post or courier to the address notified by him in writing to the Institute, or by email as provided in regulation 11.5.

- 11.3. The Member concerned or the complainant may send any notice or document required to be served under these regulations by pre-paid registered post or courier to the CEO or PCO (as the case may be) at the office of AICB, or by email as provided in regulation 11.6.
- 11.4. Where a notice or other document is sent pursuant to regulation 11.1, 11.2 or 11.3:
- (a) by post or courier, service shall be deemed to have effected on the day after the date it is despatched;
 - (b) by email, service shall be deemed to have effected on the day of its transmission.
- 11.5. A notice or other document required to be served on the Member concerned or complainant may be sent by email provided that the Member or complainant has previously indicated in writing to the CEO or PCO (as the case may be) that he is willing to accept service by email and has duly provided his email address.
- 11.6. The CEO and PCO are willing to accept service of any notice or document by email to the email address specified in their respective communication to the Member concerned or complainant.

4. LIST OF SUPPORTING EVIDENCE

Please list and attach all relevant documents which support your complaint. If you have not attached any documents, please explain why.

5. OTHER INFORMATION

5.1 Have you taken up your complaint with the AICB Member concerned or the employing organisation prior to lodging this form? Yes No

If Yes, please give a brief summary of the actions taken and the outcome.

5.2 Are there any court proceedings, whether planned or ongoing, linked to your complaint?

Yes No

If Yes, please give details including the dates of any forthcoming hearings.

5.3 Have you lodged a complaint or referred this matter to any statutory or regulatory body or other professional body? Yes No

If Yes, please state the body with which the complaint has been lodged and the outcome.

6. CONSENT

I/ We understand and agree that a copy of this complaint and attachments, and any further correspondences and documents I submit during the course of the investigation, may be disclosed to:

- the AICB Member concerned;
- AICB's committees, tribunals and staff involved in the disciplinary process;
- statutory authorities or regulatory bodies as required by law; and
- other relevant third parties.

I understand that my personal data as provided in this form may be processed by AICB in the manner as set forth in AICB's "Personal Data Protection Notice for Trainers and Other Individuals" as provided (overleaf/at the following link: <http://www.aicb.org.my>) and consent to the processing of my personal data as detailed in the said Notice.

Signature	
Position (where applicable)	
Organisation (where applicable)	
For and on behalf of (where applicable)	
Date	

7. UNDERTAKING

I/ We hereby agree and undertaken to maintain and ensure absolute confidentiality of this complaint and all matters related to this complaint. Without detracting from the generality of the foregoing undertaking, I agree and undertake not to divulge in any way this complaint or matters related to it to any person or body unless required by law.

Please send your complaint form and supporting documents to:

Chief Executive Officer
Asian Institute of Chartered Bankers
Wisma IBI
5 Jalan Semantan, Damansara Heights
50490 Kuala Lumpur