

be at the complete discretion of the Board or its delegate save that no member of the Board, the Disciplinary Committee or any complaints committee shall be eligible for appointment.

- (c) The Board may delegate to an investigating committee any power it may have relating to the inspection of members' records. Such delegation shall be in writing.

#### 20 (7) *Notice of Hearing*

The Disciplinary Committee shall give at least 10 days' notice in writing (or such lesser time than 10 days as may be agreed upon by the parties concerned) to the member against whom a charge has been made, specifying the nature of such charge and the date, place and time of the meeting of the Disciplinary Committee called to consider that matter.

#### 20 (8) *Procedure*

- (a) Except as otherwise provided in these rules, the Disciplinary Committee shall regulate its own procedure.
- (b) The Disciplinary Committee may require evidence to be given either orally or in writing and may require any evidence to be verified by statutory declaration.
- (c) The chairman of the Disciplinary Committee may require that any oral evidence be received only after the witness has taken an appropriate oath or affirmation.
- (d) At any hearing of the Disciplinary Committee, a member charged shall be given all reasonable opportunity of being heard and shall be entitled to be represented by counsel if such member so chooses.

#### 20 (9) *Statement of Findings*

- (a) The Disciplinary Committee shall forward to the Board a report of every hearing and of every penalty imposed by it.
- (b) The Board shall prepare a statement of the circumstances preliminary to the hearing of any complaint and the findings of the Disciplinary Committee on every charge and the penalty (if any) imposed.
- (c) The statement prepared in terms of Rule 20 (9) (b) shall identify the defendant member by name (unless no findings adverse to the member have been made, in which case the Board shall, at its discretion, decide whether to identify the member charged) and shall be circulated by the Board to members only or generally following the expiry of the appeal period specified in Rule 20 (13) (k).

#### 20 (10) *Penalties*

If, after hearing any charge, the Disciplinary Committee finds that the member has been guilty of misconduct or of a breach of any rule or regulation, or of any act, matter or thing detrimental to the wellbeing or proper conduct of the Exchange, it may, if it thinks fit do one or more of the following things:

- Expel the member from membership
- Suspend the member for a stated period
- Order the member to pay to the Exchange within a specified time, a sum by way of penalty not exceeding \$100,000 plus GST or any other applicable tax
- Censure the member.

#### 20 (11) *Costs and Expenses*

- (a) After hearing any charge or application, the Disciplinary Committee may at its discretion make an order as to costs including
- the costs and expenses of and incidental to any investigation or hearing, and

— the legal costs of the Exchange whether in relation to the proceedings before the Disciplinary Committee or in prior proceedings before a complaints committee appointed in terms of Rule 20 (13) (a). All witnesses' expenses shall be paid by the Exchange and shall be recoverable in terms of any order that the Disciplinary Committee may make in relation thereto.

- (b) Every person (other than a member or an officer or employee of a member) who gives evidence or attends to give evidence at a hearing by the Disciplinary Committee shall be entitled to tender for his proper travelling expenses before attending.

- (c) Every person (whether or not a member) who gives evidence or attends to give evidence at a hearing by the Disciplinary Committee shall, at the discretion of the Committee be paid such sum as the Disciplinary Committee may determine for travelling and other expenses and loss of time.

#### 20 (12) *Failure to Pay Costs or Attend*

- (a) Any member who fails within the time stated in any order of the Disciplinary Committee to pay any sum ordered to be paid by way of penalty or costs or expenses may be suspended by the Board until such sum is paid. Should any part of the sum remain unpaid for one month following the date of suspension, in the absence of any circumstance which in the opinion of the Board provides reasonable and substantial justification for such failure to pay, the Board may thereafter, at its complete discretion, expel the member forthwith.
- (b) Every member commits a breach of these rules who without lawful justification refuses or fails:
- to attend and give evidence when required to do so by the Disciplinary Committee; or
  - to answer truly and fully any question put to him by a member of the Disciplinary Committee; or
  - to produce to the Disciplinary Committee any book, tape, document, paper or other record required of him.

#### 20 (13) *Complaints Committee*

- (a) The Board or its delegate shall have the power to appoint one or more complaints committees either on a standing basis or to consider a particular charge, to investigate and consider charges which in the opinion of the Board or its delegate, relate to complaints which, given the circumstances of the case, would not justify the costs of convening the Disciplinary Committee.
- (b) A complaints committee shall consist of a minimum of one individual member who shall not be a member either of the Board or of the Disciplinary Committee and may hear any charge made against any member and referred to it by the Board or its delegate.
- (c) Where any member of a complaints committee is unable to act because of absence or because he or his firm is concerned or implicated in a charge, then the Board shall, if necessary, appoint another member in his place to consider and hear the particular charge.
- (d) The following rules relating to the Disciplinary Committee shall, mutatis mutandis and with the exceptions stated herein, apply to a complaints committee:

Rules 20 (4) (a) as to members' interests.

Rules 20 (5) (b) and 20 (5) (c) as to evidence.

Rule 20 (7) as to notice of hearing.

Rules 20 (8) (a)–20 (8) (d) inclusive as to procedure except that representation by counsel shall not be permitted without the consent of all parties.