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CHARTERED INSTITUTE OF STOCKBROKERS DISCIPLINARY
TRIBUNAL (PROCEDURE) RULES, 2021



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S. I. No. 91 of 2021

**THE CHARTERED INSTITUTE OF STOCKBROKERS ACT,
(CAP C9 LFN), 2004**

**CHARTERED INSTITUTE OF STOCKBROKERS DISCIPLINARY
TRIBUNAL (PROCEDURE) RULES, 2021**

In the exercise of the powers conferred on me by paragraph 2(1) of the Second Schedule to the Chartered Institute of Stockbrokers Act, Cap C9 Laws of the Federation of Nigeria, 2004 and of all other powers enabling me in that behalf, I **ABUBAKAR MALANI**, the Attorney General of the Federation and Minister of Justice, makes the following Rules—

[1st Day of July, 2021]

Commence-
ment.

PART I—OBJECTIVE AND APPLICATION

1. The Objective of these Rules is to assist and empower the Tribunal to discharge its duties without strict adherence to legal technicalities, strict practice and procedure of the court of law.

Objective.

2. These Rules shall apply to proceedings before the Tribunal—

Application.

(a) in respect of actions, disputes, complaints and petitions referred to it by the Investigating Panel for adjudication ;

(b) where, at the end of a preliminary investigation conducted by the Investigating Panel that a member of the institute has misbehaved in his capacity as a member ; or

(c) where a member for any other reason be the subject of proceedings before the Tribunal.

PART II—DISCIPLINARY TRIBUNAL

3.—(1) There shall be constituted by the Governing Council, a Disciplinary Tribunal (the “Tribunal”), charged with the duty of considering and determining any matter referred to it by the Investigating panel.

Establishment
and
Composition
of the
Disciplinary
Tribunal.

(2) Disciplinary Tribunal shall consist of—

(a) the President of the Council as Chairman ; and

(b) six other members of the Council.

(3) A person shall not be appointed as a member of the Tribunal for the purposes of reaching a decision which has been deferred or further deferred, unless the person was present as a member of the Tribunal when the decision was deferred.

Tenure of
Members.

4. The members of the Tribunal shall be appointed for a term of three years and may be re-appointed for a further term of 3 years, subject to good performance or any other policy review as may be issued from time to time by the Council and no more.

Legal
Assessor.

5.—(1) There shall be appointed by the Attorney-General of the Federation a Legal Assessor, who shall be a legal practitioner with not less than 10 years post call experience.

(2) The Legal Assessor shall—

(a) be present at every hearing to advise and guide the Tribunal in its decision ; and

(b) not be eligible to vote in the determination of a matter before the Tribunal.

The
Prosecutor.

6. The Legal and Ethical Services Department (the Department) of the Institute or prosecutor appointed by the Institute on such terms and conditions, shall prosecute matters before the Tribunal.

Computation
of time.

7. In the computation of time under these Rules, where—

(a) a period of less than 7 days is stipulated, public holidays shall not be counted as inclusive of the days ; and

(b) the time for doing an act under these Rules expires on a public holiday, the act may be done on the next day that is not a public holiday.

Extension or
abridgement
of time.

8. Any time stipulated by these Rules may be extended or abridged as follows—

(a) with the consent of the parties before the expiration of the stipulated time ; or

(b) the Tribunal may by order extend the prescribed time before or after its expiration on such terms and conditions as it may consider appropriate.

Representa-
tion before
the tribunal.

9. In any proceedings before the Tribunal, a party may appear in person or may be represented by a legal practitioner of his choice willing to do such act.

Change of
a Counsel.

10. A party may change his counsel by filing a notice in writing to the Tribunal.

Withdrawal
by a
counsel.

11. A counsel representing a party may withdraw his services by filing a notice of withdrawal to the Tribunal and serve same on the parties to the matter before the Tribunal.

Proof of service.

20.—(1) The process server of the Tribunal's process shall after service of a process to a person, promptly deposit the proof of service, indicating the date, time, place and mode of service with the Registrar of the Tribunal.

(2) The proof of delivery shall be *prima facie* proof of service.

(3) The Tribunal may admit proof of service of a document by a sworn statement of the person who served the document.

Filing of document.

21. A document shall be deemed to have been properly filed under these Rules by delivering 9 copies of the document to the Registrar through personal delivery or courier.

Content of a process of the tribunal.

22. A process of the Tribunal shall include the following information—

(a) the title name of the proceeding to which the document relates ;

(b) the names, addresses, telephone numbers, and e-mail addresses of the parties ; and

(c) where a party has a counsel or agent, the name, address, telephone number, and e-mail address of the counsel or agent to be served with the document.

Referral to disciplinary authority.

23. Where a member against whom a petition is brought refuses in writing to consent to the decision of the Investigating Panel or disciplinary action recommended within stipulated period, the Investigating Panel shall refer the matter to the Tribunal and shall inform the complainant accordingly.

Modification of the Tribunal's procedure.

24. The Tribunal may, after consultation with the Legal Assessor, modify its procedure in accordance with the provisions of these Rules, provided that the result is fair to the parties in the matter.

Notice of allegation.

25. The Tribunal shall direct the Registrar or Legal and Ethical Compliance Services Department to serve a written notice on a party alleged in the allegation, including—

(a) a statement confirming that the matter has been referred to the Tribunal for consideration ;

(b) the allegation and the particulars of the allegation against the party ;

(c) a summary of the facts and matters relied upon by the Tribunal or the Legal and Ethical Compliance Services Department in presenting the matter ;

(d) copy of any written statement and any other document that the Tribunal or the Legal and Ethical Compliance Services Department has in its possession, whether favorable or adverse to the member ; and

(e) the name and address of any witness the Legal and Ethical Compliance Services Department intends to call to give evidence and copies of witness statement provided by the witness.

26. A Respondent shall within 14 days from the date of service of a notice of allegation referred to in rule 25 of these Rules, serve the Tribunal or Legal and Ethical Compliance Services Department a notice in writing containing—

Response to notice of allegation.

- (a) the particulars of any defence intended to be made during trial ;
- (b) a summary of the facts to be relied upon in defence ;
- (c) copy of written statement, if any, and any other document intended to be used during trial ;
- (d) the name and address of witness intended to be called in the matter and statement of witness intended to be used in the matter ;
- (e) Respondent notice as to mode of appearance, either in person or represented by a legal practitioner, specifying the name and address of such legal practitioner ;
- (f) any admission as to alleged facts in the allegation ;
- (g) where applicable, state whether the party intends to make any representation in respect of a proposed application to be made by the Legal and Ethical Compliance Services Department in accordance with Rules 25 of these Rules ; and
- (h) state whether the Respondent wishes to have the matter dealt with on paper only or at a hearing.

27. The Tribunal may—

- (a) consolidate and hear two or more cases against a party at the same time ; and
- (b) hear cases against two or more parties at the same time, where it considers it appropriate.

Consolidation of cases and joinder of parties.

28.—(1) A party who intends to call an expert witness shall serve a written expert report signed by the expert in not less than 14 days prior to the date fixed for the hearing of the matter.

Expert witness.

(2) A party who intends to call an expert witness to respond to the expert witness of another party shall serve a written expert report in not less than 14 days prior to the date fixed for the hearing of the matter.

(3) Expert report shall contain the name, address, qualifications of the expert and substance of his opinion.

29.—(1) A party who fails to comply with the provisions of rule 28 (1) of these Rules, shall with the leave of the Tribunal and on such terms as the Tribunal may consider appropriate, tender an expert report as evidence.

Failure to provide expert's report.

(b) any further facts, material evidence, written statements and other documents intended to be relied upon ; and

(c) the name and address of any witness intended to be called to give evidence at the hearing and the witness's statement of facts.

35. A party shall not call any witness to give evidence or adduce any written statement or document at the hearing other than those frontloaded in the written notices in accordance with rules 25, 26, 31 of these Rules, without the consent of the other party and the leave of the Tribunal.

Consent to
call witness.

36. Where the Respondent fails to file a response to a notice of hearing in accordance with the provision of rule 34 of these Rules,—

Failure to
serve
response
to hearing
notice.

(a) the Tribunal may proceed with the hearing of the matter as set out in the notice of hearing without further notification and in the absence of the Respondent ; and

(b) Tribunal may admit as proved the facts and allegation in the notice of hearing by the Department and may impose penalty and costs as it may determine.

37. Where the Respondent fails to specifically deny a fact or provide grounds for denial of a fact, the Tribunal shall accept as proved any facts alleged by the Department in the notice of hearing.

Un-
controverted
facts.

38.—(1) The Tribunal shall at the request of either of the party after consultation with the Legal Assessor on the adjournment of hearing, approve of the adjournment, if it is in the interest of justice to do so.

Adjournment.

(2) An application for the adjournment of a hearing that has not begun shall be agreed by the parties.

39. The Tribunal may determine any matter in the absence of the Respondent or Member, where it is satisfied that notice of hearing has been served on the Respondent in accordance with the provisions of rules 33 and 34 of these Rules.

Absence
of the
Respondent
or Member.

PART IV—MODE OF CONDUCTING DISCIPLINARY HEARINGS

40. The hearing shall be conducted in a public place.

Public
hearing.

41. Where the Tribunal requires evidence before it to be given under oath or affirmation, a member of the Tribunal or the Registrar shall administer such oath or affirmation.

Administer-
ing oaths.

42.—(1) The burden of proving any allegation or misconduct shall lie upon the Department or prosecutor representing the Institute.

Burden and
standard of
proof.

(2) The Standard of proof in any matter before the Tribunal shall be on the balance of probabilities.

Rules of evidence.

43.—(1) The Tribunal shall not be bound by strict rules of evidence.

(2) The Tribunal shall admit oral, documentary, electronic evidence or other evidence of any material fact, which are relevant to the determination of a matter before it.

Judgment of court of competent jurisdiction.

44. The judgment of a court of competent jurisdiction in Nigeria or superior court of any country whose judgments are enforceable in Nigeria, shall be conclusive proof of the facts or convictions established in it.

Admission of evidence.

45. The Tribunal may admit evidence adduced by a party, where the evidence has not been disclosed to the other party in advance prior to the hearing, where—

(a) the parties consents to it ;

(b) the party against whom the evidence is sought to be tendered is heard on the evidence ; and

(c) after consultation with the Legal Assessor, the Tribunal is satisfied that—

(i) the admission of such evidence is necessary to ensure fairness of the proceedings and outweighs any prejudice to the party which has not previously seen such evidence ; and

(ii) there is a good reason why such evidence was not previously disclosed.

Admission of relevant Regulations as to ethical or technical conduct.

46. In determining whether an alleged misconduct has been committed or not, the Tribunal shall have regards to any relevant Regulations, Guideline, Rules whether ethical or technical or recognised by the Institute at the time the matter arose and may place such weight as it deems fit on the findings of the Disciplinary Tribunal of another professional body.

Admission of secondary evidence.

47. The Tribunal may grant leave to a party in the matter before it to obtain a certified true copy of a document tendered in evidence during proceedings.

Amendment of a Charge.

48. A charge may be amended—

(a) at the hearing with the leave of the Tribunal and with the consent of the parties in the matter ;

(b) where the wording of the charge and the evidence adduced in support of the charge is at variance with the offence committed, which in the opinion of the Tribunal, a party has not been prejudiced ;

- (c) where there is misjoinder of parties ; and
- (d) where there is ambiguity in the wordings of the charge.

49.—(1) The Tribunal may direct a person, representative of any firm or a party by summons or other provisions of a statute for the time being in force, to—

Summoning
of a witness.

(a) give evidence on oath or affirmation at the hearing of the Tribunal ; and

(b) produce or tender in evidence at the hearing of the Tribunal, documents and facts stipulated in the summons, relevant and admissible to the subject matter of the proceedings.

(2) The Tribunal shall allow cross examination on document admitted in evidence and on evidence of a witness before the Tribunal.

50.—(1) The order of proceedings at the Tribunal shall be as follows—

Order of
Proceedings.

(a) adoption of the depositions of the witnesses of the Prosecutor or Complainant ;

(b) cross-examination of the witnesses of the prosecutor and Complainant by the Respondent ;

(c) re-examination of the deposition of the witness of the Prosecutor by the Prosecutor ;

(d) adoption of the depositions of the Respondent by the Respondent's Counsel ;

(e) cross-examination of the witnesses of the Respondent by the Prosecutor or Complainant ; and

(f) re-examination of the Respondent's witnesses by the Respondent's Counsel.

(2) Upon the conclusion of the examination-in-chief and cross-examination of the witnesses, the Tribunal shall make an order for filling of written addresses by the Prosecutor and Member or Respondent.

51.—(1) A written address shall be printed, set out in numbered paragraphs and shall contain the following—

Filing of
written
address.

(a) the claim on which the address is based ;

(b) a brief statement of facts with reference to the exhibits tendered at the trial ;

(c) the issue for determination in the matter arising from the evidence including the charge ; and

(d) a succinct statement of argument in support of each issues raised.

(2) A written address shall be concluded with a numbered summary of the points raised and the party's prayer.

(3) The Tribunal shall determine the time within which the parties may file written address.

(4) A party shall file 9 copies of the written address at the secretariat and serve a copy on every other party to which the written address relates.

(5) The written address shall contain issues of fact not of legal technicalities.

Clarification of issues.

52. The Tribunal may at any stage of a matter before it request any of the parties to clarify an issue in the matter; provided that it shall not take over the prosecution of a party's case.

PART V—ORDER OF PROCEEDING, FINDING AND JUDGMENT OF THE TRIBUNAL

Facts finding by the Tribunal.

53.—(1) The Tribunal may—

(a) consider in private, whether the facts in the notice of allegation have been proved on the balance of probabilities ; and

(b) announce its findings of facts in public and give reasons for its findings.

(2) Where no facts have been proved or established, the case shall be dismissed.

Findings on misconduct.

54.—(1) Parties shall make representations to the Tribunal and shall adduce evidence on the question of misconduct.

(2) The Tribunal shall have regard to Code of Ethics and Standards of Professional Conduct, Membership Regulations and any other technical guidance issued by the Institute or Regulations issued by the Securities and Exchange Commission, the Nigerian Stock Exchange, other relevant regulatory authorities and professional bodies in deciding the issue of ethical misconduct.

(3) The Tribunal may consider in private, based on the facts before it, with a view to determining whether the Respondent committed ethical misconduct.

(4) The Tribunal shall make public its findings on the issue of misconduct and shall give reasons for its decisions.

(5) Where the Respondent is found not to have committed any misconduct, the case shall be dismissed.

Order of proceedings for misconduct.

55.—(1) The Department shall, after establishing a misconduct against a Member or Respondent as the case may be, the Tribunal may receive other information, either favourable or adverse to such member or Respondent, which may guide the Tribunal in arriving at its decision.

(2) A Member or Respondent in a matter shall be entitled to address the Tribunal on mitigation of penalty, payment of penalty, call witness and produce documents.

(3) Where a Member or Respondent choose not to attend the hearing, the member shall forward details of mitigation in writing in advance, to the Registrar, who shall provide such mitigation documents to the Tribunal.

(4) The Department shall be entitled to—

- (a) respond to any request from the Tribunal ;
- (b) challenge any contested matter of fact ; and
- (c) respond to issue raised on the Tribunal's powers.

56. The proceeding of the Tribunal shall be recorded and a transcript made available on request by any of the party to the proceeding after the payment of the prescribed fees.

Recording of the Tribunal's proceedings.

57. The Institute may publish the decision of the Tribunal as soon as possible.

Publication of the decision of the Tribunal.

58. The Tribunal may in relation to any time limit set by these Rules, take into consideration the fact that the Member or Respondent lives outside Nigeria and extend the time limits.

Time Limit.

59.—(1) Parties may reach a settlement agreement before the commencement of hearing by the Tribunal.

Pre-trial settlement.

(2) Pre-trial settlement shall not apply to matters commenced *suo-moto* by the Tribunal or matters involving market manipulation, insider dealing or other serious violations.

60. Settlement agreement shall be in writing, signed by the parties where—

Content of settlement Agreement.

(a) a statement of the violations admitted to by a Member or Respondent with reference to specific Membership Regulations, Code of Ethics and Standards of Professional Conduct or any applicable statutory provisions ;

(b) facts relevant to the matter ;

(c) penalties to be imposed on the Member or Respondent ;

(d) the Member or Respondent waives all rights to any further hearing, appeal and review ;

(e) a provision that the settlement agreement is conditional upon the acceptance of the Tribunal ; and

(f) such other matters as may be consistent with rule 63 of these Rules.

(ii) be barred from sitting for the Institute's examinations or assessments for a period of time ; and

(iii) cancel the student's relevant examination or assessment result ; and

(h) such disciplinary action imposed by the Tribunal, which may be published in the Institute's website, journal and local newspapers, if need be.

(3) Where a member or Respondent fails to comply with order or decision of the Tribunal within the stipulated time, such member or Respondent shall be dealt with in such a manner as the Tribunal may determine, including suspension or expulsion for continued failure to comply with the order or decision.

(4) The Tribunal may communicate to a member its decision as to the implication of his action and where the matter arose out of a complaint, the complainant shall be accordingly informed.

66. Where the Tribunal decides not to take any action even where there is ground for disciplinary action to be taken against such erring member, or where disciplinary action is taken, such Member or Respondent shall be liable to pay—

Cost and penalties.

(a) to the Institute a monetary penalty as may be determined by the Disciplinary Tribunal of the Institute from time to time ; and

(b) such cost as may be recommended by the Tribunal.

67. Where a member is under a disciplinary action, the Tribunal shall by an order determine the time limit for which the sanction shall remain in force and in accordance with the relevant policy of the Institute issued from time to time by the Council.

Time limit of sanction.

68.—(1) A member or Respondent shall comply with the order of the Tribunal made under these Rules within one month from the date of such order.

Compliance with the order of the Tribunal and penalty for non-compliance.

(2) Non-compliance with order of the Tribunal or direction of the Investigating Panel, shall be a ground for disciplinary action against such member or Respondent and shall be deemed to have acted in breach of the provisions of these Rules.

69.—(1) The Tribunal may file its decisions at the Federal High Court and where such decision is for payment of money, it shall be enforced as provided under these Rules or any statute for the time being in force.

Filing of directions with Federal High Court.

(2) The direction of the Tribunal shall be enforced as if it is the decision of the Federal High Court, or any statute for the time being in force.

Right of
appeal.

70. A party who is dissatisfied with the decision of the Tribunal, may appeal to the Federal High Court and shall notify the Registrar in writing within 28 days of the service of the Tribunal's decision on the party.

Re-hearing
of matters.

71. Where the Federal High Court orders for a trial de novo, the Tribunal shall hear the matter afresh within thirty days.

Revocation.

72. The Chartered Institute of Stockbrokers Disciplinary Tribunal (Procedure) Rules, 2012 is revoked.

Interpretation.

73. In these Rules—

“*Act*” means the Chartered Institute of Stockbrokers Act Cap C9, LFN, 2004 ;

“*Action*” includes complaints, petitions, suit or other proceedings between the complainant and a defendant in any proceedings ;

“*Attorney-General*” means the Attorney-General of the Federation and Minister of Justice ;

“*Chairman*” means the Chairman of the Chartered Institute of Stockbrokers Disciplinary Tribunal of the Institute ;

“*Council*” means the Governing Council of the Chartered Institute of Stockbrokers ;

“*Decision*” includes the Tribunal's judgment, ruling, order, direction, reprimand or recommendation ;

“*Department*” means Legal and Ethical Compliance Services Department of the Institute and prosecute on behalf of the Tribunal ;

“*Document*” means any information recorded or stored by any means or device including audiotape, videotape, chart, email or graph ;

“*Hearing or Sitting*” means the substantive hearing of the matter when the Tribunal having a quorum, meets to consider the merits of a formal complaint and does not include a pre-hearing review ;

“*Institute*” means the Chartered Institute of Stockbrokers ;

“*Investigating Panel*” means Investigating Panel of the Chartered Institute of Stockbrokers ;

“*Legal Assessor*” means the legal practitioner appointed to act as Legal Assessor under paragraph 4 of the Second Schedule to the Chartered Institute of Stockbrokers Act (Cap. C9 LFN 2004) ;

“*Member*” means a registered student, affiliate, graduate, associate, fellow or honorary member of the Institute ;

“*Respondent*” means a member against whom a claim, complaint or an application is made ;

“*Registrar*” means the person appointed as Secretary of the Tribunal and authorised to perform the relevant functions as provided by these Rules and any other relevant statute for the time being in force ; and

“*Record of proceeding*” includes the document prepared by the Tribunal and approved by the Chairman of the Tribunal, showing a summary of the reasons for the finding and the order made by the Tribunal including term or condition on which the finding or order was made.

“*Tribunal*” means the Chartered Institute of Stockbrokers Disciplinary Tribunal of the Institute ;

74. These Rules shall be cited as the Chartered Institute of Stockbrokers Disciplinary Tribunal (Procedure) Rules, 2021. Citation.

MADE at Abuja this 1st day of July, 2021.

ABUBAKAR MALAMI, SAN
*Honourable Attorney-General
of the Federation and Minister of Justice.*