



MAURITIUS BAR ASSOCIATION

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CO-OPTED MEMBERS: DINAY REETOO & DAMODARSINGH BISESSUR

17th September 2021

Communique: Financial Services Review Panel - Rules of Procedure

Dear Friends,

Pursuant to section 62(3) of the Financial Services Act, the Financial Services Review Panel has, at its sitting of 2nd September 2021, adopted its Rules of Procedure.

You will find below a copy of the Rules of Procedure which shall apply to cases lodged after 2nd September 2021.

Yours faithfully,

Mayuri D. Bunwaree-Ramlackhan
Secretary of the Bar Council

THE FINANCIAL SERVICES REVIEW PANEL

NOTICE

Pursuant to section 62(3) of the Financial Services Act, the Financial Services Review Panel has, at its sitting of 2 September 2021, adopted the following Rules of Procedure.

These Rules of Procedure shall apply to cases lodged after 2 September 2021.

The Financial Services Review Panel
2 September 2021

RULES OF PROCEDURE

WHEREAS section 62(3) of the Financial Services Act provides for the Financial Services Review Panel to regulate its proceedings as it may determine in a manner consistent with the rules of natural justice and procedural fairness; and

WHEREAS it is expedient to make rules to regulate the proceedings before the Financial Services Review Panel,

The Members of the Financial Services Review Panel have made the following rules:

1. These rules may be cited as the Rules of Procedure of the Financial Services Review Panel 2021.
2. In these rules –

"Act" means the Financial Services Act;

"applicant" means a person who is aggrieved by a decision of the Enforcement Committee and who has lodged an application;

"application" means an application lodged with the Secretary under section 53(4) of the Act;

"Commission" means the Financial Services Commission;

"Enforcement Committee" means the Enforcement Committee set up under

section 52 of the Act;

"party" means the applicant or the Commission;

"reply" means a reply under rule 8(1);

"Review Panel" means the Financial Services Review Panel set up under section 54 of the Act;

"Secretary" means the Secretary of the Review Panel;

"statement of case" means a statement of case under rule 6;

"statement of defence" means a statement of defence under rule 7(1).

3. Upon receipt of an application, the Secretary shall, within 2 days, by electronic means, forward the application to the members of the Review Panel.

4. Within 2 weeks of the receipt of an application under rule 3, the Review Panel shall call the matter *pro forma* to ascertain the stand of the Commission on -

(a) any motion for the suspension of the implementation of the decision of the Enforcement Committee under section 53(7) of the Act; and

(b) the application as a whole.

5. Where the Commission objects to a motion under rule 4(a), it shall provide the precise reasons for the objection and the Review Panel -

(a) may invite submissions on the objection; and

(b) shall endeavour to give its determination on the submissions within 60 days of the objection.

6. Where the Commission objects to an application, the applicant shall, within 30 days of the *pro forma* date under rule 4, file with the Secretary, with a copy to the Commission, a statement of case which shall contain -

(a) a concise statement of the facts on which the application is based;

(b) the reasons for which the decision of the Enforcement Committee is disputed; and

(c) the relief or remedy sought by the applicant.

7. (1) Within 30 days of the filing of the statement of case, the Commission shall file with the Secretary, with a copy to the applicant, a statement of defence which shall specify which facts in the statement of case the Commission –

(a) denies;

(b) is unable to admit or deny but requires the applicant to prove; or

(c) admits.

(2) The Commission shall, where it denies a fact in a statement of case under paragraph 1(a) –

(a) state the reasons for doing so; and

(b) put forward its own version.

8. (1) Within 15 days of the filing of a statement of defence, the applicant may file with the Secretary, with a copy to the Commission, a reply in response to averments in the statement of defence.

(2) A reply shall not merely reiterate the contents of, or contain new averments that have not been made in, the statement of case.

9. Within 15 days of the last day to file a reply to a statement of defence, the Review Panel shall fix the matter *pro forma* with a view to ascertaining whether the parties intend to proceed by way of an oral hearing, written submissions or both.

10. Where the parties intend to call evidence, they shall, at the *pro forma* hearing under rule 9, exchange –

(a) lists of witnesses they intend to call; and

(b) lists of documents they intend to rely on.

11. At a hearing, no party shall -

(a) call witnesses other than those specified in its list of witnesses;
or

(b) rely on documents other than those specified in its list of

documents,

except on good cause shown and with leave of the Review Panel.

12. Where a party intends to call a witness at a hearing, it shall, not later than 7 days before date of the hearing, communicate to the other party and to the Secretary, a signed statement by that witness setting out in detail the evidence which the witness intends to adduce before the Review Panel.

13. Where the parties elect to proceed by way of written submissions only without an oral hearing –

- (a) the applicant shall, within 30 days of the *pro forma* hearing under rule 9, file its written submissions with the Review Panel, with a copy to the Commission;
- (b) the Commission shall, within 60 days of the *pro forma* hearing under rule 9, file with the Review Panel, with a copy to the applicant, its response to the written submissions under paragraph (a);
- (c) the applicant may, within 75 days of the *pro forma* hearing under rule 9, file with the Review Panel, with a copy to the Commission, any rejoinder to the response under paragraph (b).

14. The time periods specified in these rules shall be strictly complied with, except where waived by the Review Panel on good cause shown.

15. The Review Panel may, where an applicant is not legally represented, allow for such derogations from these rules as it deems fit.

Made by the Financial Services Review Panel on 2 September 2021
