



**Tuchtrecht**  
**Banken**

**DISCIPLINARY REGULATIONS FOR THE BANKING SECTOR<sup>1</sup>**

<sup>1</sup>These regulations are an elaboration of article 3:17c FSA.

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## 1 DEFINITIONS

In these regulations the following terms have the following definitions:

<b>General Director</b>	:	The Foundation's chosen General Director;
<b>Bank</b>	:	a bank that is subject to the scope of the Code of Conduct for the banking sector, and whose employees are subject to disciplinary law in accordance with the Wft.
<b>Certified Individual</b>	:	a natural person who has signed an agreement as defined in the Code of Conduct for the banking sector;
<b>Board</b>	:	The Foundation's Board of Managers;
<b>Relevant Bank</b>	:	the Bank at which the Defendant worked or was present when the behaviour to which the Complaint or Report refers took place;
<b>Appeals Committee</b>	:	the Appeals Committee as referred to in article 6.1.1;
<b>Expert</b>	:	an individual who has extensive experience in the banking sector;
<b>DSI</b>	:	DSI Foundation;
<b>Banking Sector Code of Conduct</b>	:	the Code of Conduct drawn up by the NVB;
<b>Complaint</b>	:	a written complaint by the General Director in accordance with section 2.2;
<b>Reporter</b>	:	a person who makes a report;
<b>Report</b>	:	a written report in accordance with article 2.1.1;
<b>Amicable resolution</b>	:	Settling a complaint to the Enforcement Committee in response to a proposal by the General Director to the Certified Individual, in which the Certified Individual accepts a fine or a disciplinary measure in the form of training or compulsory education.
<b>NVB</b>	:	<i>Nederlandse Vereniging van Banken</i> (Dutch Banking Association);
<b>Parties</b>		General Director and/or Defendant

## Disciplinary Regulations for the Banking Sector

<b>Pre- or Employment Screening</b>	<b>In-</b> : an investigation of a candidate in the context of a potential employment status or change in position at a Bank, whereby information about the relevant candidate that is relevant to the position in question is checked and assessed prior to the definitive confirmation of employment status or change in position;
<b>Secretary</b>	the person charged with the conduct of the secretarial duties of the Enforcement Committee or the Committee;
<b>Foundation</b>	: Foundation for Banking Ethics Enforcement;
<b>Enforcement Committee</b>	: the Enforcement Committee as referred to in article 4.1.1;
<b>Disciplinary Register</b>	: the register as referred to in article 7.1;
<b>Defendant</b>	: a Certified Individual against whom a complaint has been filed.

## 2 REPORT PROCEDURE

### 2.1 Report

2.1.1 Any individual may submit a report to the Foundation. The report must be signed and contain at least the following:

- the name and address of the Reporter;
- The date;
- the name of the Relevant Bank;
- a description of the Certified Individual's behaviour;
- a sufficiently accurate notation of the Certified Individual identity details; and
- substantiation of the assertion that the behaviour in question represented a violation of the Code of Conduct for the banking sector.

2.1.2 The General Director shall confirm the receipt of the Report to the Reporter. This confirmation also includes a statement indicating that, within four weeks, the General Director will state whether the Report will lead to a Complaint being submitted to the Enforcement Committee, unless the General Director has reason to extend this period of time.

2.1.3 The General Director verifies the Certified Individual's details at the Relevant Bank.

The Bank can then inform the Certified Individual about the fact that a Report has been submitted; in that case, the Certified Individual must inform the Foundation.

2.1.3.1 The General Director initiates an investigation into any Report that satisfies the requirements specified in article 2.1.1 and for which the Certified Individual's details have been verified. He or she informs the Relevant Bank and the Certified Individual referred to in the Report, in writing.

2.1.3.2 The General Director can decide not to pursue an investigation pertaining to article 2.1.3.1 if he or she is of the opinion that the Report will obviously not lead to a well-founded Complaint. The General Director informs the Reporter of this and informs him or her of the right, in accordance with article 3.1.1, to submit a written request for review to the Chairperson of the Enforcement Committee within fourteen days of the date this notification. The General Director is not required to inform the Certified Individual and the Relevant Bank of the non-pursuance of an investigation.

### 2.2 Decision to submit a Complaint

2.2.1 The General Director decides whether to submit a Complaint to the Enforcement Committee based on the Report.

2.2.2 The General Director is also authorised to independently submit a

Complaint to the Enforcement Committee.

**2.2.3** The General Director does not submit a Complaint to the Enforcement Committee if the confirmed violation of the Code of Conduct for the banking sector is not considered sufficiently severe. When assessing the severity of the case, the General Director takes account of factors such as the nature and frequency of the violation of the Code of Conduct, the responsibilities of the Certified Individual and the degree of culpability.

**2.2.4** The General Director may decide not to submit a Complaint to the Enforcement Committee if the behaviour that led to the report:

- occurred a long time prior to the Report, with a period of five years between the behaviour and the Report serving as a starting point;
- is being dealt with or has been dealt with by another disciplinary organisation under another kind of disciplinary law;
- is or has been subject to assessment by a judicial authority through initiation of proceedings;
- is already being dealt with or has already been dealt with by the Enforcement Committee;
- is being investigated by an external supervisory body in connection with suspected violation of the laws, regulations, and codes of conduct to which the Certified Individual is subject, and which fall under the supervisory body's jurisdiction;
- deals with an act punishable by law, pertaining to the same conduct, and which is the subject of a criminal investigation and in which the Certified Individual is regarded as a suspect within the meaning of article 27 of the Code of Criminal Procedure, or for which the Certified Individual is currently being prosecuted by law;
- has already led to the Certified Individual being subjected to administrative or criminal sanctions and/or measures, which are irrevocable;
- is already part of the internal complaints or investigation procedure at the Relevant Bank; or
- may be referred to dispute resolution.

**2.2.5.1** The General Director is only authorised to propose an amicable settlement to the Certified Individual if he or she can justify the submission of a Complaint to the Enforcement Committee in accordance with articles 2.2.3 and 2.2.4. An amicable settlement must be recorded in writing.

**2.2.5.2** An amicable settlement may include a measure as referred to in article 5.6.2.1, sections i and/or iii. In that case, article 7.2 shall also apply.

**2.2.6** The General Director informs in writing the Certified Individual to whose behaviour the Report refers, the Relevant Bank and (if applicable) the Reporter, of his or her decision as to whether to submit a complaint. In that case, the General Director shall inform the Reporter of this and informs him or her of the right, in accordance with article 3.1.1, to submit a written request for review to the Chairperson of the Enforcement Committee within fourteen days of the date this notification. However, the notification that a Complaint will not be submitted may be dispensed

with in accordance with the applicability of 2.1.3.2.

### **3 REVIEW OF DECISION NOT TO SUBMIT A COMPLAINT TO THE ENFORCEMENT COMMITTEE OR NOT TO INVESTIGATE A REPORT**

#### **3.1 Submitting a review request**

**3.1.1** Regarding the General Director's decision not to submit a Complaint to the Enforcement Committee or initiate an investigation as a result of the Report, the Reporter may submit a written request for review to the Chairperson of the Enforcement Committee within fourteen days. The Reporter must provide substantiated grounds for such a review request.

#### **3.2 Review procedure**

**3.2.1** The Chairperson of the Enforcement Committee shall decide on any requests for review submitted by the Reporter. The Chairperson may grant the General Director and Certified Individual an opportunity to reply to the review request in writing within a time period set by the Chairperson.

**3.2.2** The Secretary shall inform the Reporter in writing if the review request is to be taken into consideration.

**3.2.3** The Chairperson of the Enforcement Committee may deal with the review request during a committee hearing. In that case, the General Director and Certified Individual will be sent copies of the review request.

The General Director, the Certified Individual, and the Reporter will be given an opportunity to verbally clarify their positions during the hearing.

**3.2.4** The Secretary shall inform the General Director, the Certified Individual, and the Reporter of the date, time, and location of the hearing.

**3.2.5** The hearing is not open to the public.

**3.2.6** The Chairperson of the Enforcement Committee maintains order in the hearing.

**3.2.7** The General Director is authorised to be represented at the hearing.

**3.2.8** The Certified Individual and the Reporter may call on legal counsel if desired.

**3.2.9** The Chairperson of the Enforcement Committee shall not take documents submitted the hearing by the General Director, the Certified Individual, or the Reporter into consideration, unless he/she expressly

requests such documents during the hearing.

### **3.3 Verdict**

**3.3.1** The Chairperson of the Enforcement Committee shall issue a verdict on the review request in accordance with the provisions of articles 2.2.3 and 2.2.4.

**3.3.2** The Chairperson of the Enforcement Committee shall decide on the merits of the request as quickly as possible, or no later than one month after the Chairperson of the Enforcement Committee has completed the investigation into the review request. The Chairperson of the Enforcement Committee may choose to extend this period of time by one month. In that event, the Secretary shall immediately inform the Reporter and the General Director of the extension.

**3.3.3** The Reporter, the General Director, the Certified Individual, and the Relevant Bank shall be informed of the verdict of the Chairperson of the Enforcement Committee in writing.

**3.3.4** This verdict may not be appealed to the Appeals Committee.

**3.3.5** If the Chairperson of the Enforcement Committee declares that the investigation should have been initiated or that a Complaint should have been submitted to the Enforcement Committee, then the General Director shall institute an investigation into the Report within the period to be determined by the Chairperson, or he/she shall submit a Complaint to the Enforcement Committee within the stated time period.

## **4 THE ENFORCEMENT COMMITTEE**

### **4.1 Enforcement Committee**

**4.1.1** There is an Enforcement Committee.

### **4.2 Task**

**4.2.1** In the first instance, the Enforcement Committee is responsible for dealing with complaints.

### **4.3 Composition, appointment and dismissal**

**4.3.1** The Enforcement Committee consists of at least five people, one of whom acts as the Chairperson of the Enforcement Committee.



**4.3.2** The Chairperson and at least two members of the Enforcement Committee must meet the requirements for nomination as a judge in a court of law. The other members of the Committee are Experts or other persons with qualifications useful for disciplinary proceedings. When choosing to appoint Experts, the various activities that Banks are involved in are taken into account.

**4.3.3** Employees of DSI and the NVB, the General Director, members of the Board, members of the Board at DSI, members of the management boards at the Banks and members of the Board at the NVB cannot become members of the Enforcement Committee. The Chairperson of the Enforcement Committee and the other members who are not Experts must not be affiliated in any way with a Bank or have been associated with a Bank during the period of one year prior to the appointment, unless the Board is of the opinion that their independence with regard to the circumstances of the case is sufficiently guaranteed.

**4.3.4** Membership of the Enforcement Committee cannot be combined with membership of the Appeals Committee.

**4.3.5** The Board shall appoint the Chairperson of the Enforcement Committee.

**4.3.6** The Board shall appoint the other members of the Enforcement Committee in consultation with the Chairperson of the Enforcement Committee.

The Board shall decide on the re-appointment of the Chairperson and members of the Enforcement Committee, in accordance with the provisions of these regulations.

**4.3.7.** The Board may suspend or dismiss the Chairperson or any member of the Enforcement Committee in cases where the articles 46 f - 46 m of the Act on the Legal Status of Judicial Officers indicate that there are grounds for suspension or dismissal.

**4.3.8** Members are appointed for a period of three years. Each member can be reappointed three times. Interim vacancies will be filled within a period of six months in accordance with articles 4.3.5 and 4.3.6. An individual who is chosen to fill an interim vacancy resigns at the same time as the person whose position he or she has filled would have retired.

**4.3.9** The Enforcement Committee shall appoint one of its members as the Vice-Chairperson. This individual must meet the requirements for nomination as a judge in a court of law. The Vice-Chairperson shall replace the Chairperson upon his/her absence or illness. In the event that such absence or illness lasts longer than two months, the Board will appoint another Chairperson for the duration of the absence or illness, in accordance with the provisions of this section. This Chairperson's powers are equivalent to those of a Chairperson who has been chosen in the normal manner. This Chairperson shall resign at the same time as the appointment of a new Chairperson in accordance with article 4.3.5.

**4.3.10** The Board shall appoint a Secretary of the Enforcement Committee in consultation with the Chairperson of the Enforcement Committee, as well as an assistant secretary if necessary. The Board may dismiss the Secretary after consulting with the Chairperson of the Enforcement Committee.

#### **4.4 Report**

**4.4.1** At the end of each calendar year, the Enforcement Committee presents the Board with records of the disciplinary cases handled that year. This report shall edit all personal details in order to make it impossible to identify the individuals referred to in the report.

**4.4.2** The Board shall publish the report of the Enforcement Committee.

#### **4.5 Confidentiality**

The members of the Enforcement Committee, the secretary and other persons involved in the handling of a Report or a Complaint are required to maintain the confidentiality of the Enforcement Committee's proceedings and of all information and details that were provided to them during the handling of a Report or Complaint, including after leaving their position.

### **5 DISCIPLINARY PROCEEDINGS**

#### **5.1 Composition of investigating Enforcement Committee**

**5.1.1** The Enforcement Committee makes decisions regarding Complaints referred to it by the General Director.

**5.1.2.1** Three or five members shall participate in the handling of a Complaint. The Chairperson of the Enforcement Committee selects the members who will participate in the handling process. Members who work in the banking sector must be in the minority in the composition of the Enforcement Committee. The Chairperson shall consider the nature of the complaint when determining the composition of the Enforcement Committee.

**5.1.2.2** In the event that the Chairperson assigns a committee without being a member him/herself, then the Chairperson must ensure that at least one member is not an expert and meets the requirements for nomination as a judge in a court of law. In that case, the committee shall be chaired by a member who meets the requirements of the previous sentence, as appointed by the Chairperson of the Enforcement Committee.

**5.1.2.3** Individuals who are in any way related to the Complaint may not participate in the handling thereof.

**5.1.3** The Secretary shall inform the Defendant and the General Director of the composition of the Enforcement Committee handling the Complaint.

## **5.2 Excusal and objection**

**5.2.1** A member assigned to handle a complaint in accordance with article 5.1.2.1 may apply for excusal. In that event, the Chairperson shall appoint another member to replace the excused member, in accordance with the provisions of articles 5.1.2.1 and 5.1.2.2.

**5.2.2** The Defendant has the right to submit a written objection to one or more members of the Enforcement Committee in writing to the Enforcement Committee.

**5.2.3** Such an objection must be submitted within ten days of the date on which the Defendant received notification of the facts upon which the objection is based. If the objection is not submitted within this time frame, the Enforcement Committee may reject the request without further investigation.

**5.2.4** Objection can be raised against a member of the Enforcement Committee based on facts or conditions which raise justifiable doubt of the member's impartiality when handling the Complaint.

**5.2.5** In the event of an objection, the Chairperson of the Enforcement Committee shall re-establish the Enforcement Committee without the member subject to the objection, in accordance with articles 5.1.2.1 and 5.1.2.2.

**5.2.6** This revised Enforcement Committee shall issue a verdict with regard to the objection as quickly as possible.

**5.2.7** If the objection is found to be justified, then the Chairperson shall appoint another member to replace the member subject to the objection, in accordance with the provisions of articles 5.1.2.1 and 5.1.2.2.

If the objection request pertains to the Chairperson, then the tasks listed in this article and the previous article shall be performed by the Vice-Chairperson, and if the request pertains to this person as well, then the Enforcement Committee shall appoint one of its members to act as an ad-hoc Chairperson.

**5.2.8** The secretary shall inform the Defendant and the General Director of the verdict, and if applicable, the name of the person who will take the place of the member subject to the objection.

**5.2.9** This verdict may not be appealed to the Appeals Committee.

### **5.3 Processing the Complaint**

**5.3.1** Where this section refers to the Chairperson of the Enforcement Committee, the member referred to in art. 5.1.2.2 shall be understood to act as the Chairperson.

**5.3.2** The Complaint must contain a clear statement of the facts on which the Complaint is based, as well as a statement of reasons explaining why the General Director is of the opinion that there is a violation of the applicable Code of Conduct for the banking sector and why the submission and handling of the Complaint is justified. The General Director must also submit the relevant documents in his/her possession along with the complaint. The General Director may suggest a proposal for the disciplinary resolution of the case.

**5.3.2.1** The Secretary shall immediately inform the Defendant of the submission of the Complaint, and send the Defendant a copy of the Complaint and the documents referred to in the Complaint.

**5.3.2.2** The Defendant may submit a written rebuttal of the Complaint within one month after receiving notification of the Complaint, and may submit any documents pertaining to the case. The Chairperson of the Enforcement Committee can extend this period of time upon justified request by the Defendant. The Secretary shall send the General Director a copy of the defence and of the documents submitted by the Defendant.

**5.3.3** The Chairperson of the Enforcement Committee may decide that the parties replicate and duplicate in writing at the Defendant's request or on his/her own initiative.

**5.3.3.1** Prior to proceeding to handling the Complaint, the Chairperson of the Enforcement Committee may request that the General Director further clarifies the Complaint in writing. This additional clarification is considered to be part of the Complaint.

The Secretary shall immediately inform the Defendant in the event of such a decision. The time periods referred to in articles 5.3.2.1 and 5.3.2.2 shall begin on the date that the Defendant is notified of the additional clarification submitted by the General Director.

**5.3.4** The Secretary shall inform the Defendant and the General Director of the date, time, and location of the hearing and invite them to attend.

**5.3.5** In the event that one party does not appear at the hearing, the Enforcement Committee may again invite the Defendant and the General Director to attend a hearing or decide to allow the hearing to proceed without the party who has not appeared, and to issue a verdict on the case.

**5.3.5.1** Without prejudice to the provisions in section 8.2.2.1, the Enforcement Committee may draw appropriate conclusions from the fact that an invited person does not appear at the hearing or that the party

does not respond to questions addressed to him.

**5.3.6** A Defendant may not avoid the handling of a Complaint based on the fact that he or she is no longer working at a Bank at the time of the Report or the (handling of) the Complaint.

**5.3.7** The Enforcement Committee shall handle the complaint in the hearing. The General Director and the Defendant will be given an opportunity to verbally clarify their positions during the hearing. The Chairperson may decide to invite the Reporter or other persons whose presence is desirable to attend the hearing. Such persons referred to in the previous sentence shall not have access to the documents submitted during the Complaint procedure or other data, unless the Chairperson decides that such access shall be granted. The Chairperson shall decide whether the persons referred to in this article shall be allowed to speak at the hearing. Inasmuch as is possible at that point in time, the invitation to attend the hearing should include the Chairperson's decision on this matter.

**5.3.8** The General Director is authorised to be represented at the hearing.

**5.3.9** The Defendant may call on legal counsel at the hearing.

**5.3.10** The hearing of the Enforcement Committee is not open to the public.

**5.3.11** The Chairperson of the Enforcement Committee maintains order in the hearing. The Chairperson of the Enforcement Committee may determine the working methods of the Enforcement Committee to the extent that these are not already established in these regulations. There is no possibility of appeal against the Chairperson's use of this power.

**5.3.12** In the event that the Defendant or General Director wish to hear testimony of witnesses or experts during the hearing, then they must inform the Chairperson of that fact in writing within the time frame indicated by the Chairperson. If the Chairperson of the Enforcement Committee honours the request, all parties will be notified of that fact in writing in a timely manner.

**5.3.13.1** The Enforcement Committee is authorised to decide to hear the testimony of the Reporter or witnesses or to call on the advice of experts.

**5.3.13.2** Witnesses or experts shall be called by the party requesting such testimony, or by the Secretary in accordance with article 5.3.13.1. Such calls for testimony shall be done in a manner determined by the Chairperson, in accordance with a time frame determined by the Chairperson.

**5.3.14** The Enforcement Committee may request that the parties present books and documents at the hearing. The committee may also charge the parties to provide or share relevant documents or data within a time frame before the hearing determined by the Chairperson. If the committee decides to request such information, the Secretary shall share

the data obtained with the other party or parties as soon as possible.

**5.3.15** A party wishing to submit documents at the hearing shall ensure that the Enforcement Committee and the other party have received a copy of the documents no later than two weeks before the date of the hearing.

**5.3.16** The Enforcement Committee may ask questions of the General Director, the Defendant and the Relevant Bank during the hearing, or submit written questions regarding the facts of the case to which the Complaint pertains prior to the hearing.

## **5.4 Further investigation**

**5.4.1** The Enforcement Committee may request investigation of the relevant books and documents by a chartered or forensic accountant of its choosing.

**5.4.2** The costs for such experts shall be for the account of the party requesting the assistance of said experts, or for the Foundation in the event that the Enforcement Committee officially commissions such an investigation.

**5.4.3** The Relevant Bank is obliged to fully cooperate with the Enforcement Committee's investigations. If the Relevant Bank is of the opinion that it cannot be reasonably expected to provide specific cooperation or information, it shall inform the Enforcement Committee of this fact. In that event, the Bank may request a special hearing in order to justify its position. The Relevant Bank is not obliged to provide any information if doing so would cause it to violate laws or regulations.

## **5.5 Evidence**

**5.5.1** The Enforcement Committee shall only consider information or evidence after having given both parties the opportunity to familiarise themselves with said evidence and respond to it, the foregoing in such manner as it may deem appropriate.

**5.5.2** The Enforcement Committee shall not take documents submitted the hearing by the parties into consideration, unless it has expressly requested such documents.

## **5.6 Verdict**

**5.6.1** The Enforcement Committee shall decide on the merits of the Complaint as quickly as possible, or no later than six weeks after the Enforcement Committee has completed its investigation into the grounds of the Complaint. The Chairperson of the Enforcement

Committee may choose to extend this period of time by a maximum six weeks. In that event, the Secretary shall immediately inform the parties of the extension.

**5.6.2.1** If the Enforcement Committee deems the Complaint to be well-founded, it may impose one or more of the following measures on the Defendant, whereby it at least takes the conditions mentioned in article 2.2.3 into account:

- (i) a disciplinary measure in the form of compulsory education;
- (ii) a censure;
- (iii) a fine of up to 25,000 euro, to be paid to the Foundation;
- (iv) a suspension of employment in the banking sector, parts of the banking sector, or specific positions in the banking sector, for a period of up to three (3) years.

The Enforcement Committee may find that, although there are grounds for a Complaint, there is no need to impose a sanction.

**5.6.2.2** The Enforcement Committee may decide that partial or conditional sanctions may be imposed. In such a case, the Enforcement Committee shall state the conditions for such a sanction in its verdict.

**5.6.3** The verdict, as justified and established in writing, shall include a statement that it was reached in accordance with the provisions in these regulations. Furthermore, the verdict shall include the date of the verdict, the names of the participating members of the Enforcement Committee and the name of the Secretary. The verdict shall be signed by the Chairman of the Enforcement Committee and the secretary. The resulting signed verdict shall be archived at the secretariat of the Enforcement Committee.

**5.6.4** The Enforcement Committee's verdict shall not go into effect until it has been made definitive. The Foundation shall take the necessary measures to facilitate the implementation of the verdict.

**5.6.5** The Secretary shall immediately send a copy of the verdict by registered mail to the Defendant, the Relevant Bank, the General Director, and the Reporter.

**5.6.6** All verdicts may be published on behalf of the Foundation, without the mentioning of any names, in a manner of its choosing. Decisions by the General Director may also be published on behalf of the Foundation, without the mentioning of any names, in a manner of its choosing. With this in mind, the General Director shall inform the Foundation of any verdicts, Amicable resolutions, or other decisions made by the General Director.

**5.6.7** Amicable resolutions as referred to in article 2.2.5.2 may only be published if publication is permitted by the terms of the resolution.

## 6 PROCEDURE AT THE APPEALS COMMITTEE

### 6.1 Appeals Committee

6.1.1 There is an Appeals Committee.

### 6.2 Task

6.2.1 The Appeals Committee is responsible for handling appeals against decisions made by the Enforcement Committee.

### 6.3 Explanatory clauses

6.3.1 That which is specified in the following articles shall similarly apply to the Appeals Committee, to the extent that this is not deviated from in these regulations:

- Section 4.3 (*Composition, appointment and dismissal*);
- Section 4.4 (*Report*);
- Article 4.5 (*Confidentiality*);
- Section 5.1 (*Composition of investigating Enforcement Committee*);
- Section 5.2 (*Excusal and objection*);
- Sections 5.3 and 5.4 (*Processing the Complaint and Further investigation*);
- Section 5.5 (*Evidence*);
- Section 5.6 (*Verdict*).

6.3.2 Where provisions regarding the Enforcement Committee are referred to in the aforementioned articles,

- (i) 'Enforcement Committee' shall also apply to: 'Appeals Committee';
- (ii) read "appeal" or "written appeal", according to the context, in place of "Complaint".

### 6.4 Lodging an appeal

6.4.1 For a period of one month following the date that the Enforcement Committee's verdict is sent, as defined in article 5.6.5, both the Defendant and the General Director may make a written appeal against the verdict to the Appeals Committee. The name and address of the appeal applicant and the applicant's objections to the contested verdict must be stated in the written appeal. The appeal applicant must also send a copy of the Enforcement Committee's contested verdict as an appendix to the written appeal. The General Director will provide the Appeals Committee with the dossier at his/her first opportunity.

6.4.2 Appeals may only be submitted with regard to the final verdict of



the Enforcement Committee. This includes statements which include a dictum containing a definitive verdict regarding the grounds of a Complaint or the disciplinary sanctions resulting from such a verdict. When appeals are lodged, the applicant may also address grievances regarding statements made before the final verdict, with the exception of statements as referred to in section 3.3, statements regarding requests for objection, and decisions as referred to in article 5.3.11. Appeals submitted by applicants who are already in appeal are not admissible inasmuch as they are directed against verdicts which the applicant in question has already lodged grievances in a previous appeal.

**6.4.3** When an appeal has been lodged, the parties that did not appeal retain the right to appeal on their behalf, even after the expiry of the term stipulated in article 6.4.1, provided that this is done within one month of the day on which the notice of appeal was sent to the party concerned. The preceding and following provisions shall apply *mutatis mutandis* to the appeal to be lodged by these parties.

**6.4.4** A written appeal is considered to have been submitted on time if it is received by the Secretary of the Appeals Committee within the time period specified in article 6.4.1. When sent by post, a written appeal is considered to have been submitted on time if it is possible to demonstrate that it was sent before the end of the time period, as long as it is still received no later than a week after the end of the time period.

**6.4.5** The Secretary of the Enforcement Committee shall inform the General Director, the Relevant Bank, the Defendant, and the Reporter immediately when submitting an appeal to a verdict by the Enforcement Committee. This notification need not be sent to the applicant who submitted the appeal.

## **6.5 Hardship clause**

**6.5.1** A written appeal that is submitted after the time period specified in article 6.4.1 has elapsed will still be handled if the Chairman of the Appeals Committee is of the opinion that the appeal applicant cannot reasonably be expected to have been in default.

## **6.6 Appeals process**

**6.6.1** At least one Expert will participate in the appeals process.

**6.6.2** Unless the appeal applicant has limited the scope of the case, the Appeals Committee will assess the case in full. The committee is authorised to finalise a verdict which is disadvantageous to the applicant when compared to the contested verdict.

**6.6.2.2** Without prejudice to the provisions in section 5.5 and in article 6.6.2, the Appeals Committee is not bound by the grounds invoked by

the parties in its assessment.

## **6.7 Decision**

**6.7.1** The Appeals Committee shall issue its verdict as quickly as possible, and no later than six weeks after completing its investigation. Article 5.6.1, second and third sentences, shall apply.

**6.7.2** If the Appeals Committee concludes that the Enforcement Committee's contested verdict was correct, then this contested decision will be upheld.

**6.7.3** If the Appeals Committee concludes that the Enforcement Committee's contested verdict was not correct, then it will be annulled and, if necessary, the Appeals Committee will propose the measures it deems appropriate as a replacement for the disciplinary measures stipulated in the contested verdict, in accordance with articles 5.6.2.1 and 5.6.2.2.

**6.7.4** The Appeals Committee may also partially nullify contested verdicts. In that case, the parts of the initial verdict that were challenged in appeal but which are not annulled, will only apply as irrevocable from the date of the Appeals Committee's verdict.

## **7 DISCIPLINARY REGISTER**

**7.1** The Foundation keeps the Disciplinary Register.

**7.2** Amicable resolutions as described in article 2.2.5.2, and imposed measures, as described in articles 5.6.2.1 and 5.6.2.2 shall be recorded in the Disciplinary Register.

**7.3** Only the first name, last name and date of birth of the Certified Individual are recorded in the Disciplinary Register. In case of a professional disqualification, the record will show that a professional disqualification was imposed and the end date of the disqualification is noted.

**7.4** A measure as defined in articles 5.6.2.1 and 5.6.2.2 shall not be recorded in the Disciplinary Register until the measure has been declared final.

The annotation in the Disciplinary Register shall be cancelled after three (3) years have passed since the measure went into effect; with the proviso a) that in the case of a measure as referred to in article 5.6.2.1 under (iv), the three-year period shall be counted from the date on which the period of validity of that measure ends and b) that in the case of a measure as referred to in article 5.6.2.2, the Enforcement Committee may decide that the measure will be removed from the Disciplinary Register at a later date, but no later than three years after the probationary period for the disciplinary measure has expired.

**7.5** The Disciplinary Registry is only accessible to Banks in the context of Pre- or In-Employment Screening. The Foundation may decide to give other institutions access to the register as well.

**7.6** Only the Foundation is authorised to consult the Disciplinary Register. Inclusions or access to the Disciplinary Register may only take place in accordance with the Disciplinary Register Protocol of the Foundation for Banking Ethics Enforcement established by the Foundation and approved by the Dutch Data Protection Authority.

## **8 OTHER PROVISIONS**

### **8.1 Protection**

Making a Report and the submission and processing of a Complaint must not lead to any negative consequences for the Reporter, directly or indirectly, unless the Reporter has not acted in good faith. The same applies to witnesses, experts, the General Director, members of the Board and members of the Enforcement Committee and Appeals Committee. The Banks, NVB, DSI and the Foundation will do everything in their power to ensure this protection.

### **8.2 General Director's information gathering authority**

**8.2.1** The General Director can make inquiries and seek information from Certified Individuals or Banks when enforcing compliance with the Code of Conduct for the banking sector and in the context of future or current procedures involving the Enforcement Committee and the Appeals Committee.

**8.2.2.1.** The Certified Individual on whose behalf the General Director conducts an investigation, and the Defendant in a complaint procedure, are both obliged to provide full cooperation to any request by the General Director, the Enforcement Committee or the Appeals Committee.

**8.2.2.2** A Bank is obliged to provide the information requested by the General Director within a period of time set by the General Director, unless this cannot be reasonably expected in the given circumstances or if doing so would result in the violation of laws or regulations. If the Relevant Bank is of the opinion that it cannot be reasonably expected to provide specific information, it shall inform the General Director of this fact and enter negotiations with the General Director.

**8.2.3** The General Director may request assistance from experts when exercising the authority granted in this article.

### **8.3 Notices**

Notices pursuant to these regulations, intended for Certified Individuals or Banks, can be made lawfully using the address of the Certified

Individual or the Relevant Bank as provided by the Bank. The Relevant Bank will provide the Certified Individual's private address to the Foundation.

Those who make announcements pursuant to these regulations shall, without prejudice to the provisions above, take all necessary care to ensure that communications actually reach the person to whom they are intended.

#### **8.4 Changes**

These regulations have been approved by the Foundation. These regulations may be altered or changed in consultation between the Foundation and the NVB. If the parties cannot come to an agreement, they shall submit the proposed changes for mediation to a third party chosen by the parties in concert.