

## DGCX Group Complaints Resolution Procedures

### 1. General Introduction

1.1 The Dubai Gold and Commodities Exchange (“DGCX”) and the Dubai Commodities Clearing Corporation (“DCCC” or “the Clearing Corporation”), together “the Group” are regulated by the Securities and Commodities Authority (“SCA”), and as such consider it appropriate to have in place procedures for the management of complaints (“the Procedures”). These Procedures cover complaints raised by members of DGCX and/or DCCC (the “Members”), any person, firm or corporation on behalf of whom the Broker Member trades, or proposes to trade a Contract, or from whom the Broker Member accepts instructions to trade a Contract (the “Client”) and vendors who sells goods or services (the “Vendors”) to DGCX and/or DCCC and are detailed as follows below.

1.2 In general terms, the key stages of the Procedures are:

- a. an Eligible Complaint (as defined in paragraphs 6-7) must be submitted in writing;
- b. at first instance the Group will investigate the complaint and attempt to resolve it. If the person who raises a complaint (the “Complainant”) is dissatisfied with the Group’s response or proposals to redress the complaint, he/she may request that the complaint is referred to the board of directors of either DGCX or DCCC (the “Board”) as appropriate through the Group’s Compliance Director.
- c. the Board, if it determines that the referral is of an Eligible Complaint, will investigate the matter;
- d. following due consideration, the Board will produce a report outlining its recommendations which will be copied to DGCX Group and the Complainant; and
- e. the Board may agree on the initial resolution made by DGCX Group, otherwise, the Board may recommend a compensatory payment and/or remedial action.

1.3 There is no restriction on who can bring a complaint, although any complaint must be an Eligible Complaint in order to be capable of being handled in accordance with these Procedures. These Procedures do not limit the Group from considering or refraining from considering any complaint which is not an Eligible Complaint pursuant to such procedures as it may determine. All complaints, whether Eligible Compliant or not, shall be maintained in a log by the Compliance Director. Any Complainant may request to remain confidential, in that case the Board will make every effort to protect Complainant’s identity from disclosure to Members and Vendors. The identity of Complainant

will be disclosed where there is an order or direction of any court of competent jurisdiction or any competent judicial, governmental, regulatory or supervisory body or disclosure is required by laws and regulations.

1.4 In referring any Eligible Complaint to the Board, the Complainant shall be deemed to agree to be bound by and be subject to these Procedures and, as a result, accepts that any recommendation made by the Board to DGCCX Group, shall be a full and final resolution of the complaint and all associated rights and claims.

## **2. Eligible Complaints**

2.1 “Eligible Complaints” are complaints against the Group arising in connection with the performance of, or failure to perform, of any of its regulatory functions, submitted according to the Procedures.

2.2 A complaint will not be an Eligible Complaint if it:

- a. relates to:
  - I. the Group’s relationship with its employees;
  - II. the content of the Group’s rules; or
  - III. a decision against which the Complainant has the right to appeal against disciplinary procedures under Part F of the DGCCX By-Laws or Part C of the DCCC Clearing Rules;
- b. is connected with a contractual or commercial dispute involving the Group and is not connected in any way with the Group’s regulatory functions;
- c. is made outside the period of 12 months from the date on which the Complainant becomes aware of the circumstances giving rise to the complaint unless the Complainant can show reasonable grounds for delay; or
- d. is of a frivolous or vexatious nature or amounts to an abuse of process.

2.3 A complaint connected with, or which arises from any form of continuing action by the Group will not normally be investigated by the Board until the action has been completed.

## **3. Making a Complaint**

3.1 A complaint should be made in writing, and sent to:

Compliance Director, UP, Level 37 Gold Tower, Jumeriah Lake Towers, Dubai or by e-mail to [complaints@dgccx.ae](mailto:complaints@dgccx.ae).

3.2 The complaint should be signed by the Complainant, and in any case where it is made by a company, partnership or other body corporate, should be signed by a Director or equivalent officer with appropriate authority.

3.3 If a complaint is made orally, the Complainant will be asked to confirm their Complaint in writing.

3.4 The written complaint should include sufficient information to allow the Group to properly identify the Contracts or other matters to which the complaint relates, the activities complained of, and the basis for any alleged loss or other detriment of the Complainant. If insufficient information is provided, the Group may request further information and the complaint may not be investigated further until such information is provided.

3.4 The Group will not make any charge to Complainants in relation to any complaint, but in the event that the complaint is deemed to be frivolous, vexatious or an abuse of process then the Group, or the Board if the complaint has been referred to the Board, shall be entitled to seek recovery of all and any costs incurred in the investigation of the complaint.

#### **4. Investigation of the Complaints by the Group**

4.1 At the first instance, an investigation into the complaint will be conducted by a suitably senior member of staff, who will be nominated by the Compliance Director in coordination with the CEO, providing that this senior member has not previously been involved in the matter and who is not the subject of the complaint.

4.2 The Group will acknowledge the complaint within 5 working days of receipt, giving the name and job title of the individual handling the complaint and including a copy of these Procedures.

4.3 Within 15 days of receiving any complaint which the Group considers to be ineligible, the Group will inform the Complainant that it proposes not to investigate the complaint for the reason specified. Within 15 days of receiving such notice, the Complainant may refer the complaint to the Board or ask the Group to refer the complaint to the Board. The Board may ask the Group to investigate the matter if he deems it appropriate.

4.4 The Group will seek to resolve any Eligible Complaint as quickly as possible. In most cases, the Group will produce a final response to the Complainant within 8 weeks from the date of receipt of the complaint by the Group. However, where the scope of the Eligible Complaint reasonably demands further investigation, after 8 weeks the Group will write to the Complainant explaining why the matter has not been resolved, indicating when a final response is likely to be made.

4.5 If the matter has not been resolved within 12 weeks, the Complainant will have the right to refer the Eligible Complaint to the Board. In such cases, the Board will be entitled to decline to consider the Eligible Complaint for a defined period notified to the Complainant in order to allow the Group to complete its investigation, if (i) it arises from any form of continuing action by the Group under Part F of the DG CX By-Laws or Part C of the DCCC Clearing Rules; or (ii) it shares its subject matter with an investigation, arbitration or disciplinary proceedings on which the outcome of the Eligible Complaint would impinge or otherwise depend.

4.6 Where in the opinion of the Group any Eligible Complaint is connected with or arises out of the same or similar facts of circumstances in respect of which an outstanding or otherwise unresolved Eligible Complaint has been made under these Procedures, the Group may in its absolute discretion and upon giving notice in writing to any Complainant or Complainants so concerned, join such Eligible Complaints so that they may be addressed in the same investigation and/or any final response. The Group shall not in such circumstances be obliged to disclose the identity of a Complainant or facts that in its opinion would be likely to reveal such identity when notifying any individual Complainant of such a joinder or in its drafting of a final response.

4.7 The Group may obtain professional advice as appropriate.

## **5. Result of the Group's investigation**

5.1 The Group will inform the Complainant of the outcome of the investigation, together with any proposed remedial action. The remedial action taken may include, but will not be limited to, offering an apology, taking steps to rectify the error, the offer of a compensatory payment on an ex-gratia basis, or a combination of the above. If an Eligible Complaint is rejected, the Group will give its reason for doing so.

5.2 The Group may, where it deems it necessary, itself refer the Eligible Complaint to the Board for investigation.

## **6. Referral to the Board**

Within 15 working days of the receipt of the outcome of the Group's investigation, the Complainant must notify the Group in writing whether it accepts the proposals or requires that the Eligible Complaint be referred to the Board. If the Complainant wishes to refer the Eligible Complaint to the Board, the Complainant should state the reason for their continued dissatisfaction. Failure by the Complainant to make such notification to the Group within 15 days will result in the Eligible Complaint not being referable to the Board and ceasing to be an Eligible Complaint.

## **7. The Board's investigation**

7.1 The Board will acknowledge the Eligible Complaint within 10 working days of receipt, giving a proposed timetable for the completion of various stages in the investigation.

7.2 If the Board determines at any time that an Eligible Complaint it is investigating is ineligible, it must cease its investigation forthwith and give notice to the Complainant(s) and the Group of its determination.

7.3 The Board will seek to resolve Eligible Complaints as quickly as possible. In most cases, the Board will produce a final response to the Eligible Complaint within 8 weeks from the date of its acknowledgement letter. However, where the scope of the Eligible Complaint reasonably demands further investigation, after 8 weeks the Board will instead explain why the matter has not been resolved and indicate when it is likely to make a final response. The Board will make every effort to resolve all Eligible Complaints within 12 weeks from the date of referral to the Board but will otherwise inform the Complainant if this is not possible.

7.4 In considering whether a Eligible Complaint made against the Group is justified, the Board must consider whether the Group's conduct, in relation to its regulatory functions, amounted to, inter alia:

- a. a failure to act fairly;
- b. a failure to perform its regulatory functions having regard to all the circumstances of the case;
- c. a lack of care or a mistake; or
- d. an act of fraud, bad faith or negligence.

7.5 Where in the opinion of the Board any Eligible Complaint is connected with or arises out of the same or similar facts or circumstances as another Eligible Complaint already referred to it, then it may in its absolute discretion and upon giving notice in writing to any Complainant or Complainants so concerned, join such Eligible Complaints so that they may be addressed in the same investigation and/or any final response. The Board shall not in such circumstances be obliged to disclose the identity of a Complainant or such facts that in its opinion would be likely to reveal such identity when notifying any individual Complainant of such a joinder or in its drafting of a final response.

7.6 The Group and the Complainant shall each make every effort to afford the Board all reasonable cooperation, including access to its staff, documents, records and information. However, the Group and Board will have regard to the confidentiality of certain information (such as that given to the Group under confidentiality arrangements) as outlined in paragraph 11.

7.7 The Group is not prevented from continuing to take such action, or further action, as it considers appropriate during the investigation in relation to any matter which is related to a complaint or Complainant.

7.8 During the course of his investigation, the Board may:

- a. permit and/or request both the Complainant and the Group to provide appropriate documentation, evidence, oral or written submissions in relation to any specific matters that arise;
- b. make further requests of all relevant parties and/or take whatever action is considered appropriate which might assist in considering the complaint and confirming its factual accuracy including, where reasonable and at the Group's expense, appointing or seeking the advice of independent external advisers or experts;
- c. require the parties to co-operate; and
- d. otherwise conduct the investigation as he sees fit.

7.9 The Board may appoint a person to conduct any part of an investigation on its behalf, but subject to its discretion. That person must be independent of the Group and the Complainant.

7.10 The Board will ensure that, before it concludes an investigation and makes a report, any person who may be the subject of criticism in it is given notice of, and the opportunity to respond to, that criticism.

## **8. Result of the investigation**

8.1 The Board must report on the result of its investigation to the Group and the Complainant, giving reasons for any recommendations made. The Board can recommend that the Group takes remedial action including, but not limited to, offering an apology, taking steps to rectify the error or, if appropriate, the offer of a compensatory payment on an ex gratia basis, or a combination of the above. The Group may, where appropriate, also be required to inform the Board and the Complainant of such steps which it proposes to take in response to the report.

8.2 The Board may, where appropriate, require the Group to publish the Board's report (or any part thereof) if the Board considers that such report should be brought to the attention of the public or Members generally. Further, the Board must ensure that its report, apart from identifying the Group, does not mention the name of any other person or contain particulars which are likely to identify any other person unless:

- a) in the opinion of the Board the omission of such particulars would be likely to impair the effectiveness of the report; or
- b) taking into account the public interest and the persons involved, the Board considers it necessary to mention the name of that person or to include in the report those particulars; or
- c) the consent of the person involved is given to such publication; or
- d) the information is otherwise already public knowledge.

8.3 The Group may, where it considers appropriate to do so, disclose to third parties, such as other regulatory authorities, any information which is received with the Eligible Complaint, or which is obtained from the Complainant in the course of a subsequent investigation.

8.4 The Group may instigate disciplinary proceedings as a result of the Group's or Board's investigation or matters surrounding the Eligible Complaint.

## **9. Record-keeping**

A copy of all documents and materials relating to complaints should be sent to the Group. The Group will retain such documents and materials for a minimum of 10 years.

## **10. Exclusion of liability**

Neither the Group nor the Board shall be liable to any Complainant for any loss (direct or otherwise) damage or injury arising from any act, omission, misuse of power or negligence on its part, save in the case of fraud, wilful misconduct, gross negligence, death, personal injury or any other liability which by law cannot be excluded.

## **11. Confidentiality**

The Board, the Group and any Complainant must each observe the strict confidentiality of the investigation of any complaint, all information provided (to the extent it has not been made public in the Board's report) and all communications made for the purpose of the investigation.