



Rules governing CFA UK's disciplinary process

December 2010

1: ROLES, RIGHTS AND RESPONSIBILITIES

CFA UK is committed to providing a fair, efficient, and effective disciplinary process. Throughout the disciplinary process, CFA UK, covered persons, and the Disciplinary Review Committee (DRC) must adhere to the rules of procedure.

1.1 Role and authority of the Disciplinary Review Committee (DRC)

The DRC is a committee established by the CFA UK Board. The DRC will be composed of three members (two Board members – past or present – and a regular member serving on a CFA Institute or CFA UK committee). The DRC enforces the disciplinary review process by determining whether to open investigations, appointing investigating officers to undertake investigations, by reviewing their recommendations and making determinations and by appointing appeals panels when required. The DRC's responsibilities extend across all local members who are not members of CFA Institute or registered candidates in the CFA Program. CFA Institute members and registered candidates in the CFA Program are covered by the disciplinary procedures established by CFA Institute.

1.2 Role and authority of the Investigating Officer

The investigating officer (IO) is appointed by the DRC to undertake investigations arising from self-reporting, third party complaint or media review. The IO is authorized to investigate any matter involving, or appearing to involve, the professional conduct of a covered person and may contact any entity or person who may be able to provide assistance in an investigation.

The IO presents a case to the DRC as to whether the covered person may or may not have violated the code and standards (CFA Institute's Code of Ethics and Standards of Professional Conduct – to which all members agree to adhere) and might recommend an appropriate sanction, if any. The IO presents findings to the DRC for their attention. Should a covered person seek to appeal the DRC's decision, the investigating officer and a member of the DRC will present evidence and advocate in support of the DRC's determination before an appeal panel.

The investigating officer has a responsibility to seek evidence from a covered person (by means of the covered person's response to a statement of allegations) and to incorporate that evidence into the case that is presented for the DRC's determination.

With the DRC's permission, the IO may appoint individuals to act on the IO's behalf and to assist in performing the functions related to investigations and any resulting disciplinary proceedings.

1.3 Rights of a covered person

A covered person who is the subject of a professional conduct investigation or disciplinary proceeding has the right to:

- a) retain and be represented by legal counsel;
- b) present documentary evidence and written testimony; and
- c) present verbal testimony, present witnesses and question witness statements presented on behalf of the investigating officer.

1.4 Responsibilities of a covered person

A covered person who is the subject of a professional conduct investigation or disciplinary proceeding has the responsibility to:

- a) adhere to the rules of procedure;
- b) produce accurate and complete copies of all requested documents in the covered person's possession or control;
- c) provide information verbally and/or in writing as requested by the IO; and
- d) cooperate fully in the investigation or disciplinary proceeding.

Failure by the covered person to provide requested documents, information, or testimony is grounds for summary suspension of membership.

1.5 Grounds for sanctions

Disciplinary sanctions may be imposed on a covered person for:

- a) a violation of CFA Institute's Code and Standards;
- b) a conviction or guilty plea as further described in Rule 5;
- c) a permanent or indefinite bar from registration as further described in Rule 5;
- d) falsification of information on enrollment, registration, or membership application forms; and/or
- e) failure to cooperate in a professional conduct investigation or proceeding.

1.6 Sanctions

Possible sanctions include the following, which may be published according to these rules:

- a) **Private reprimand.** An admonishment in writing where the notice of disciplinary action excludes the covered person's name and identifying information and will not be disclosed to third parties.
- b) **Censure.** An admonishment in writing where the notice of disciplinary action may include the covered person's name and identifying information and will be disclosed to third parties upon request.
- c) **Suspension of membership.** Covered person's membership in CFA UK is terminated for a specified period of time.
- d) **Revocation of membership.** Covered person's membership in CFA UK is permanently terminated.
- e) **Summary suspension.** Covered person's membership in CFA UK is automatically terminated.

2: INVESTIGATIONS

2.1 Beginning an investigation

Possible violations may come to the attention of CFA UK through many sources, including self-disclosure, third-party complaint and publicly available information. All potential violations of which CFA UK becomes aware will be reported to the quarterly meetings of the DRC by the chief executive. The DRC may appoint an investigating officer to open an investigation of any matter involving, or appearing to involve, the professional conduct of a covered person regardless of the source of the information.

2.2 Notice of investigation

A notice of investigation will be sent to a covered person who becomes the subject of an investigation by the IO. The notice of investigation will include a copy of the rules of procedure. The notice will be sent out by the chief executive in such a manner that its delivery is recorded.

2.3 Investigation

As part of an investigation into a covered person's conduct, the IO is authorized to contact any person or entity that it believes may be able to provide relevant information, documents, or assistance in an investigation. The IO may request and obtain information, documents, and assistance from the covered person and via them from regulatory authorities, clients, employers, public records, and any other sources that may come to their attention.

2.4 Continuing an investigation or proceeding

The DRC may commence and/or continue an investigation or disciplinary proceedings for conduct that occurred while a covered person, even if the member ceased to be a covered person for failure to pay dues or meet other membership requirements.

2.5 Closing an investigation

If at the end of an investigation the IO determines that there is insufficient evidence of a violation, that case will be made to the DRC and, subject to the committee's agreement, the covered person will be notified in writing that the investigation has been closed. CFA UK reserves the right to re-open a closed investigation if it receives new or different information or allegations concerning the covered person's conduct.

2.6 Statement of allegations

If the IO determines that there is sufficient evidence of a violation, the covered person will be provided with a statement of allegations. The purpose of the statement of allegations is to inform the covered person of the findings of the investigation and to allow the covered person an opportunity to respond and present his or her position before the matter is referred by the IO to the DRC for determination.

The statement of allegations will advise the covered person in writing of the general nature of the investigation findings and identify the apparent violation(s). The covered person may, but is not required to, provide a written submission bringing any facts, evidence, or mitigating circumstances to the attention of the IO for consideration in the matter.

If the covered person responds to the statement of allegations, the written response must be received within the reasonable time allowed by the IO. If timely received, the covered person's response will be presented by the IO to the DRC

for consideration along with the IO's recommendation. The written response of a covered person may be presented and considered as evidence if the matter results in a hearing or an appeal.

3: DETERMINATIONS

3.1 Determination of the Disciplinary Review Committee

At the end of an investigation, the IO will present a case to the DRC.

After consideration of the case documents, the DRC will determine, by majority vote, whether it is more likely than not that the alleged violation occurred. The DRC will determine findings of fact, conclusion as to violation(s), and the appropriate sanction(s), if any..

If the DRC determines that there is sufficient evidence that it is more likely than not the covered person has committed a violation, the chief executive will provide the covered person with a written determination from the DRC (in such a manner that its delivery is recorded) that will include:

- a) an explanation of the findings of fact, conclusion as to the violation(s), and sanction(s) if any;
- b) copies of all documents relevant to the determination that were obtained from a source other than the covered person, after removing any confidential information; and
- c) a proposed notice of disciplinary action.

3.2 Determination recommending a private reprimand

A covered person who receives a determination by the DRC of a private reprimand must accept or reject the findings of fact, conclusion as to the violation(s), and recommended sanction(s) in writing within 14 days of the date of the determination.

If the covered person accepts, or fails to reject, the determination in the time provided, the findings of fact and conclusion as to the violation(s) will be deemed admitted and the recommended sanction(s) will be imposed. The covered person also will be deemed to have waived all rights to appeal. If the covered person rejects the determination, the DRC may continue the investigation and/or refer the matter to an appeal panel.

3.3 Determination recommending a censure, suspension or revocation

A covered person who receives a determination by the DRC recommending any of the following sanctions:

- a) censure;
- b) suspension of membership; or

c) revocation of membership;

must accept or reject the findings of fact, conclusion as to the violation(s), and recommended sanction(s) in writing within 14 days of the date of the determination. If the covered person rejects the determination, the DRC may continue the investigation and/or refer the matter to an appeal panel.

4: APPEAL PROCESS

4.1 Covered person's request for appeal panel and written submission

If the DRC imposes a suspension of membership or revocation of membership, the covered person may request an appeal. The request must be made in writing to the DRC within 14 days of the date of the decision.

Along with the request for appeal, the covered person must provide a written submission for the appeal panel's consideration stating the relevant facts and reasons why the DRC erred in its findings of fact or conclusion as to the violation(s) and/or why the sanction(s) imposed is unfair.

The DRC must, within 14 days of receipt of the covered person's request for an appeal, submit a written response to the covered person's written submission for consideration by an appeals panel.

4.2 Burden of proof

For an appeal to succeed, the appeal panel must determine that there was an error in the findings of fact or conclusion as to the violation(s) and/or that the sanction(s) imposed was unfair.

4.3 Selection of appeal panelists

An appeal panel will consist of three regular members of CFA UK, including one past or present member of CFA UK's Board and a member serving on a CFA UK committee. One of the panelists will be selected (by agreement of the three) as the appeal panel chair.

4.4 Notice of appeal panel and challenge procedures

The covered person and the DRC (represented by a member of the DRC and/or the IO) will be provided with at least 14 working days' notice of the appeal panel date. The covered person will be provided with information about the membership of the appeal panel at that time. Should the covered person wish to challenge the inclusion of one of the panel members, they are free to do so and a substitute will be appointed.

4.5 Appeal panel procedures

The appeal panel will be provided with a copy of the submissions from the covered person and the IO, the DRC decision and the written submissions to the

appeal panel. The appeal panel will meet by telephone conference call or in person.

4.6 Appeal panel decision

The decision of the appeal panel will be determined by a majority vote. The appeal panel chair will issue a written decision containing the appeal panel's findings of fact, conclusion as to the violation(s), and sanction(s), if any. The DRC's decision will be affirmed unless the appeal panel determines that the findings of fact and/or conclusion as to the violation(s) were in error and/or the sanction(s) is unfair.

The appeal panel may impose no sanction, the same sanction imposed by the DRC, a lesser sanction, or a greater sanction. The chief executive will provide the appeal panel decision to the covered person within 10 days of the hearing (in such a manner that its delivery is recorded). The decision of the appeal panel is final.

4.7 Publication and disclosure

Notices of disciplinary action will be published on the CFA UK website. Except for private reprimands, the notice of disciplinary action:

- a) may include the covered person's name,
- b) will be available to third parties upon request, and
- c) may be shared with the covered person's regulator.

5: SUMMARY SUSPENSION

5.1 Grounds for summary suspension

The DRC may determine the summary suspension of a covered person if the covered person:

- a) is convicted of, pleads guilty to, or consents to the imposition of punishment for a crime punishable by more than one year in prison;
- b) is barred permanently, or for an indefinite period of time, from registration as an authorized person under the Financial Services & Markets Act 2000 (FSMA) or similar laws; or
- c) fails to cooperate with the DRC in an investigation of the covered person's conduct.

5.2 Notice of summary suspension

If a summary suspension is proposed by the DRC, the covered person will be provided with a written notice of summary suspension, which will also advise the covered person of the right to request a review of the summary suspension by appeal.

5.3 Request for review of summary suspension

If the covered person requests an appeal of the summary suspension, the covered person must provide a written request within 14 days of the date of the notice of summary suspension. The committee will then refer the matter to an appeal panel.

5.4 Failure to request review of summary suspension

If the covered person does not request a review of the summary suspension within 14 days of the date of the notice of summary suspension, the summary suspension automatically becomes a revocation and/or prohibition.

5.5 Summary suspension appeal panel

An appeal panel will be formed and conducted as provided in Rule 4.3.

5.6 Announcement and publication of summary suspension

The imposition of the summary suspension will be published in a CFA UK publication(s) and/or posted on the CFA UK website. The notice of disciplinary action may include the covered person's name and may also be provided to third parties, including the covered person's regulator.

5.7 Reversal of a revocation and/or prohibition imposed pursuant to rule 5.1(a) or (b)

A summary suspension and subsequent revocation and/or prohibition imposed as a result of Rule 5.1(a) or (b) may be rescinded by the committee if the covered person provides reliable evidence demonstrating that the underlying criminal conviction or industry bar has been reversed and no longer meets the sanction criteria under Rule 5.1(a) or (b). The committee, however, may continue any investigation into the conduct. A notice of the reversal may be published on the CFA UK website.

5.8 Reversal of a revocation and/or prohibition imposed pursuant to rule 5.1(c)

If the covered person agrees to cooperate with the DRC's investigation, the DRC may rescind the notice of summary suspension.

6: REINSTATEMENT

6.1 Reinstatement following timed suspension

A covered person who has received a suspension of membership will be reinstated on the expiration of the period of suspension, provided the covered person confirms that he or she has not been the subject of any disciplinary action since the suspension became effective and provided the covered person pays all applicable membership dues.

6.2 Petition, investigation, and review for reinstatement following revocation

A covered person who received a revocation of membership may seek reinstatement by submitting a petition for reinstatement to CFA UK's chief executive who will pass on the petition to the DRC.

To be eligible to seek reinstatement, the petitioner must wait at least five years after the effective date of the revocation or prohibition. On receipt of a petition for reinstatement, CFA UK will conduct an investigation as may be necessary. The DRC may require the petitioner to complete and file a Professional Conduct Statement and complete a Standards of Practice examination.

The DRC, on completion of the investigation, will deliver a written recommendation to the chief executive and the petitioner. The petitioner may also submit written information to the DRC on his or her behalf. The petitioner must demonstrate to the DRC's satisfaction his or her professional competence and fitness to practice, which will include sufficient evidence demonstrating rehabilitation and full compliance with all disciplinary orders.

If the petition for reinstatement is denied, the DRC may mandate that CFA UK should not accept any further petitions for reinstatement either permanently or for a period of time or on the satisfaction of any condition it may impose.

6.3 Announcement and publication of reinstatement

If a petition for reinstatement is granted pursuant to Rule 6.2, a notice of the reinstatement may be published in a CFA UK publication(s) and/or posted on the CFA UK website.