

**DECISION NO (1) OF 2001  
CONCERNING  
THE REGULATIONS AS TO THE ARBITRATION OF  
DISPUTES ARISING FROM THE  
TRADING OF SECURITIES AND COMMODITIES**

**The Chairman of the Board of Directors of the Securities & Commodities Authority,**

Having considered the provisions of Federal Law No. (4) of 2000 concerning the Emirates Securities & Commodities Authority and Market,

Federal Law No. (11) of 1992 concerning Civil Procedure and the amendments thereto,

Pursuant to Council of Ministers Decision No. (193/18) of 2000 concerning the constituting of the Board Of Directors of the Authority,

After consultation and coordination with the bodies concerned in the establishment of markets in the State, and

Pursuant to the Resolution of the Authority's Board of Directors at its meeting held on 18/12/2000,

Has decided to approve the following regulations as to the **arbitration of disputes arising from the trading of securities and commodities:**

**Definitions**

**Article (1)**

The following words and expressions shall have the meanings set forth opposite each of them, unless the context of the provision requires otherwise:

**The Law:** Federal Law No. (4) of 2000 concerning the Emirates Securities & Commodities Authority and Market.

**The State:** The State of the United Arab Emirates.

**The Authority:** The Securities & Commodities Authority.

**The Board:** The board of directors of the Authority

**Market:** A securities and commodities market licensed in the State by the Authority.

**The Panel:** The arbitration panel provided for in this regulation.

**The Clearing:** The entity that conducts the operations of settlement and payment of the funds due to the transacting parties.

**The Claimant:** The party who requests referral of the dispute to arbitration.

**The Respondent:** The party against whom arbitration is requested.

## **Chapter One: General Provisions**

### **Article (2)\***

Arbitration is optionally used in resolving disputes that arise from the trading of securities and commodities, upon the consent of all parties. The provision of this Regulation shall apply in this regards.

### **Article (3)**

The respective parties to the arbitration may nominate persons to be their attorneys to or assist them, provided that the Panel is given prior written notice of the names of such persons and their addresses and it is indicated whether they have been nominated for the purpose of attorney ship or of assistance.

### **Article (4)**

Notices and communications to any parties to the arbitration, or to their representatives or assistants, shall be directed to their last-known address and shall be delivered against a receipt, or shall be issued by registered mail or by facsimile, telex or any other legally recognized means of communication, so long as written evidence acknowledging transmission is obtained.

The notice or communication shall be deemed fully effected as soon as received by the other party or his representative, and on the day on which receipt is presumed if sent in accordance with the provisions of the preceding paragraph.

### **Article (5)**

The computation of the periods specified in these regulations shall start as from the day following the day of the notice or communication. If that falls upon an official holiday, the period shall be computed as from the first official working day following that day. Feast days and official holidays falling within the periods specified shall be computed as ordinary days, but if the last day of

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\* Article (2) has been amended according to Decision No. (35/R) of 2008.

the period is an official holiday, such period shall expire at the end of the first official working day following that day.

## **Chapter Two: The Request for Arbitration**

### **Article (6)**

A request for arbitration shall be submitted to the Authority containing the names of both Claimant and Respondent, the place of residence of each, an exposition of the subject-matter of the dispute, the requests related thereto and what they are founded on, and the compensation claimed.

Copies of all supporting documents, a memorandum explaining the dispute, and evidence of payment of the arbitration fee shall be attached thereto.

### **Article (7)**

A request for arbitration shall be entered as soon as it reaches the Authority in a special register with numbers in serial from the beginning of the calendar year, the numbering ending at the end of that year. The original of the request and the receipt for the fee shall be kept in a special file.

### **Article (8)**

The Respondent shall be notified in the manner stated in Article (4) of this regulation, and shall thereupon submit his defense to the Claimant's requests within (15) days from date of his notification. He shall attach to the statement of defense the documents he considers relevant thereto, or shall refer to the evidence and documents he intends to submit.

### **Article (9)**

Either party to the dispute may amend or supplement his claims or pleas during the course of the proceedings, unless the Panel deems it inappropriate to give leave for such amendment because of the lateness of the time of its submission.

## **Chapter Three: The Arbitration Panel**

### **First: Formation of the Panel**

#### **Article (10)**

An arbitration Panel or Panels shall be formed by resolution of the Chairman of the Board, to undertake the task of determining disputes arising between transacting parties in the Market. It shall be presided over by a member of the judiciary nominated by the Minister of Justice or the head of the justice departments, as the case may be, and have two members, one nominated by the director general of the Market in question, while the other shall be nominated by the Chairman of the Board.

#### **Article (11)**

The members and Chairman of the Panel shall, as soon as they are named and before they are confirmed, sign a declaration that they accept the task, or decline to do so, and that they are independent of the parties to the arbitration. They shall also make a written declaration to the Authority as to any facts or circumstances that could give rise to justifiable doubts as to their impartiality and independence in relation to the dispute placed before them.

They shall also of their own motion advise the Authority immediately of any such circumstances and facts which may arise during the arbitration.

The Authority shall notify the parties in writing of such information, giving them time to express their views on what has been stated.

#### **Article (12)**

Neither party to the dispute may recuse an arbitrator except in cases which give rise to justifiable doubts as to his impartiality and independence, such as kinship which disqualifies, or having undertaken legal representation, or having a common interest, or previously having given an opinion on the subject-matter of the dispute.

A request for recusal shall be submitted to the Authority in writing and accompanied by the supporting documents and evidence within fifteen (15) days from the date when the requesting party becomes aware that the Panel has been formed, or from the date he becomes aware of the circumstances necessitating recusal. In all cases, no request for recusal shall be admitted after the rendering of the award

of the Panel or the closing of pleadings and the hearing in the dispute placed before the Panel.

If the arbitrator whose recusal is requested does not withdraw of his own accord, the Authority shall rule on the request within a period of no more than one week from date of submission thereof.

### **Article (13)**

A party requesting recusal whose request has been rejected may appeal to the Board within fifteen (15) days from the date he receives notice of the decision rejecting the request for recusal. The Board's decision in this respect shall be final and unappealable.

### **Article (14)**

The submitting of a request for recusal shall not operate as a stay of the arbitration procedure. The Panel, including the arbitrator whose recusal is requested, may continue with the proceedings and render the arbitral decision prior to any ruling on the request for recusal.

### **Article (15)**

An arbitrator shall be replaced by another in case of death, recusal, or withdrawal, or upon the Authority being satisfied that the arbitrator is unable to perform his task in law or in fact.

Replacement shall be effected in accordance with the provisions of Article (10) of this regulation.

## **Second: Competences of the Panel**

### **Article (16)**

The Panel shall undertake the task of investigating the dispute placed before it if that is needed, and it may depute one of its members or request the office of legal affairs to do this.

### **Article (17)**

Either party to the dispute may raise a plea of want of competence in the Panel, no later than the time when the Respondent submits his defense. As for the plea that the Panel has exceeded its competences, it shall be taken during the course of the arbitration procedure, forthwith upon the raising of the matter alleged to be out with the power of the Panel.

In both cases the Panel may accept a plea raised after that time if it considers the delay therein is justifiable.

#### **Article (18)**

The Panel may rule upon any of the pleas referred to in the preceding article either as a preliminary issue, or in the substantive arbitral decision.

If the Panel rules in a preliminary ruling that it has competence, either party to the dispute may, within one week from the date it is notified of the ruling, raise the matter before the competent civil court, whose decision shall be unappealable.

#### **Article (19)**

The requesting of the competent civil court to consider the matter of the Panel's competence shall not operate as a stay of the arbitration procedure. The Panel may continue with such procedure and render the arbitral decision.

#### **Article (20)**

The Panel may order either of the parties in dispute, upon request of one of them, to take an interim protective measure deemed by it to be necessary for the subject-matter of the dispute. It may require the lodging of appropriate security in respect of the measure taken.

### **Chapter Four: The Course of the Arbitration Proceedings**

#### **Article (21)**

The Authority shall send the file of the dispute to the Panel as soon as the preparing of the file is complete, and within a period of not more than one week from its receipt of the application duly completed.

The file shall contain a summary of the allegations, and a listing of the requests, pleas and supporting documents. The Panel, as soon as it receives the file, shall define its task and lay down a timetable for the course of the arbitration proceedings, furnishing a copy thereof to the Authority and the parties to the dispute, and informing the Authority and the parties of any amendment it makes in this regard.

### **Article (22)**

The arbitration proceedings shall commence on the day on which the Respondent receives a request for the dispute to be referred to arbitration. Proceedings before the Panel shall be subject to the provisions of this regulation.

### **Article (23)**

The Panel shall treat the respective parties to the dispute on an equal footing and shall give each of them full opportunity to present their case.

### **Article (24)**

The arbitration shall in principle take place at the premises of the Market concerned with the dispute. The Panel may however meet in any place which it deems suitable for deliberation amongst its members, and for hearing what witnesses, experts or the parties to the dispute have to say, or for examining documents.

### **Article (25)**

The Arabic language shall be the approved language in the arbitration proceedings. This shall apply to any written statement submitted by either party, and to any oral argument, notice or decision issued by the Panel.

The Panel may order any documentary evidence in a language other than Arabic to be accompanied by a certified statutory translation thereof into the Arabic language.

If either or both of the parties to the dispute are not proficient in the Arabic language, the Panel may seek the assistance of a translator accredited by the Market in question.

The Panel shall in any event render its final award in the Arabic language.

### **Article (26)**

It shall be for the Panel to decide whether to hold oral hearings in respect of the dispute before it, or to be content to proceed on the basis of the documents and other evidence available to it. It shall however hold oral hearings at a suitable stage of the proceedings pursuant to the request of any party.

### **Article (27)**

The time and place of the oral hearing and the meeting of the Panel for that purpose shall be notified to both Claimant and Respondent at least one week before the holding thereof.

### **Article (28)**

Any party shall have communicated to it all data, documents and information submitted by any one of them to the Panel, and also any report made by an expert or any documentary evidence which could be founded upon by the Panel in making its decision.

### **Article (29)**

If the Respondent fails to submit its defense within the period prescribed in Article (8) of this regulation, or if a party fails to attend a hearing or to submit documentary evidence, the Panel may continue with the proceedings before it and render an arbitral decision on the basis of the evidence available to it.

### **Article (30)**

The Panel may appoint one or more experts to submit a report to it on particular issues specified by it. The parties to the dispute shall furnish to the expert any information relevant to the subject matter of the dispute, and enable him to have sight of the relevant documents.

### **Article (31)**

The Panel or either party may request the holding of a hearing to be attended by the expert in order to debate his report. Such hearing may be attended by expert witnesses approved in advance by the Panel to give their opinions on the issue which is the subject-matter of the dispute.

### **Article (32)**

The Panel, and either party with leave of the Panel, may obtain evidence from the state authorities concerned, and, where any authority declines to do so, the Panel may request the assistance of a

competent court in the State in order to obtain such evidence. The court may, within the limits of its jurisdiction and in accordance with the rules of evidence in force therein, give effect to the request.

### **Article (33)**

Deliberations on decisions shall be confidential and none shall take part therein other than the members of the Panel who attended the hearings.

### **Article (34)**

The Panel shall enter all proceedings taking place before it in official minutes to be signed by its members and by the parties to the dispute.

### **Article (35)**

If, during the consideration by the Panel of the dispute placed before it, a primary issue is raised which falls outwith its competence or some commercial paper or document is alleged to be a forgery, the Panel shall stay the proceedings pending final judgment thereon by the competent civil court.

### **Article (36)**

The course of proceedings before the Panel shall be interrupted for the same reasons as are provided for in Articles (103 – 105) of Federal Law No. (11) of 1992 promulgating the Law of Civil Procedure and the amendments thereto. This shall produce all legal effects produced by interruption of the course of proceedings.

### **Article (37)**

Without prejudice to the provisions of Articles (35) and (36) of this regulation, the Panel shall hear the dispute expeditiously, and without being bound by the provisions of the Law of Civil Procedure, save as regards the basic guarantees and principles of litigation.

## **Chapter Five: The Rendering of the Arbitral Decision**

### **Article (38)**

The Panel shall determine the dispute in accordance with the rules of the Law and the regulations and decisions issued in implementation thereof, and otherwise in accordance with the general legal rules in force in the State, within a period not exceeding (60) days from the commencement date of the timetable which it has laid down for the course of the arbitration proceedings. It may extend such time if necessary, but the decision to extend shall state reasons.

The decision shall be enforced in accordance with Federal Law No. (11) of 1992 concerning Civil Procedure and the amendments thereto.

### **Article (39)**

The Panel's decision shall be rendered on the approval of a majority of its members. The Chairman of the Panel may issue decisions in respect of procedural matters if the other members so permit him.

### **Article (40)**

The arbitral decision shall be issued in the name of the President of the State or in the name of the Ruler of the Emirate in question, as the case may be, and shall be in three copies, stating therein the date and place of its issue, a summary of the parties' statements and their documents, the grounds for the decision and [its] dispositif, the parties' names and capacities or the names of their representatives, and the names of the members of the Panel and its secretary; and all members of the Panel shall sign it.

The decision may be issued with the signatures of a majority of the members, provided the Chairman is amongst them, so long as there is a statement of the reason for the absence of any signature.

### **Article (41)**

If it so happens that the parties to the dispute agree during the course of the arbitration proceedings on a settlement to their dispute, the Panel shall discontinue the proceedings and record the settlement in the form of an arbitral decision on agreed terms. Such decision shall have the same status and effect as any other arbitral decision rendered on the subject-matter of the dispute.

### **Article (42)**

An arbitral decision shall state grounds unless the parties to the dispute agree on non-disclosure of the grounds, or unless the decision is issued on agreed terms as provided in Article (41) of this regulation.

### **Article (43)**

The copies of the arbitral decision shall be deposited with the legal affairs office, and that office shall deliver to each party one copy thereof signed by the arbitrators in the manner stated in Article (40) of this regulation.

## **Chapter Six: Closure of the Arbitration Procedures**

### **Article (44)**

**Arbitration proceedings shall conclude by the rendering of the arbitral decision or pursuant to an order for discontinuance thereof issued by the Panel in the following cases:**

- a. Withdrawal by the Claimant of his request for the referral of the dispute to arbitration, or his failure to attend the hearing for argument and testimony without written excuse accepted by the Panel.
- b. The parties' agreement to discontinue the proceedings.
- c. Where the Panel is satisfied that continuation of the proceedings has become unnecessary or impossible for any reason.

### **Article (45)**

Either party to the dispute may request the Panel, within fifteen (15) days from the date it received the arbitral decision, to rectify any material, arithmetical or typographical error or any other errors occurring in the decision. It may also request it to interpret a particular point in the decision or to issue a supplementary decision in respect of claims the arbitral decision has omitted to address.

If the Panel considers that the request is justified, it shall effect the rectification or give the interpretation within (15) days from the date of receiving the request. The interpretation shall be a part of the arbitral decision. The supplementary arbitral decision shall however

be issued after notifying the other party and the elapsing of (30) days from receipt of the request.

### **Article (46)**

The Panel may of its own motion rectify any error of the kind referred to Article (45) of this regulation within (15) days from the date of issue of the arbitral decision.

It may in case of need extend the time for effecting rectification or giving interpretation or issuing a supplementary arbitral decision.

## **Chapter Seven: Challenge to Arbitral Decisions**

### **Article (47)**

**An arbitral decision may be challenged only by a request for annulment or setting-aside. The request shall be submitted to the competent civil court having jurisdiction to annul the decision, in the following cases:**

- 1- Where the party requesting setting-aside has not been validly notified of the appointment of the Panel or the arbitration proceedings, or has not been able to present his case before the Panel for a reason which satisfies to the court.
- 2- Where the arbitral decision has dealt with matters out with the scope of the dispute referred.  
If however it is possible to sever the decisions related to matters referred to arbitration from those not so referred, only that part relating to matters not referred may be set aside from the arbitral decision.
- 3- Where the rules relating to formation of the Panel or the procedure followed in the arbitration have been contravened.
- 4- Where the arbitral decision is contrary to public order.

### **Article (48)**

No request for the setting-aside of an arbitral decision shall be admissible if such request is submitted after (30) days have elapsed from the date of receipt of the decision sought to be set aside by the party seeking setting-aside.

### **Article (49)**

The competent civil court may, when moved to set aside an arbitral decision, request the Panel to take any step which, when taken, would lead to the removal of the grounds on which the request for setting-aside was founded.

### **Article (50)**

The lodging of a request to the competent civil court to set aside an arbitral decision shall not result in a stay of enforcement of such decision, unless such court expressly decrees a stay of enforcement.

## **Chapter Eight: Arbitration Costs**

### **Article( 51)\***

1. The Authority shall collect an arbitration request registration fee in the amount of (AED1000). This fee shall be proceeds for the Authority, the refund of which may not be claimed even if the arbitration request was revoked.
2. The Authority shall collect the amount of (AED3000) in return of administrative expenses.

### **Article( 52)\***

1. The Authority shall collect the following charges for the arbitrators:

S/N	Value of the Dispute	Charges
1	Less than one AED million	(4%) of the value of dispute subject to a minimum of AED (20,000)
2	More than one AED million & up to five AED million	AED (40,000) + (1%) of the amount in excess of one AED million subject to a maximum of AED (80,000)
3	More than five AED million, & up to AED twenty-five million	AED (80,000) + (0.4%) of the amount in excess of five million Dirhams subject to a maximum of AED (160,000)

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\* Article (51) has been amended according to Decision No. (18) of 2011.

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4	More than AED twenty-five million	AED (160,000) + (0.1%) of the amount in excess of AED twenty-five million subject to a maximum of AED (200,000)
5	In case the value of the dispute subject is not determined	AED (40,000) .

2. The charges of the arbitration tribunal shall be distributed equally among the arbitrators.
3. The disputed amount in the event of claiming shares in kind shall be estimated by calculating the closing price of the shares in dispute on the date of the business day preceding the date of submitting the request for arbitration.

#### **Article (53)**

The Authority may set the fees of the arbitrator or arbitrators at a lower or higher amount than that stated in the computation schedule in Article (52) of this regulation if it considers that necessary having regard to exceptional circumstances.

#### **Article (54)**

The arbitral decision shall state the arbitration costs, and specify the party who is liable for them or the amount of the part thereof which each party is to bear.

#### **Article (55)**

This regulation shall be gazetted in the Official Gazette and shall come into force as from the date of their gazetting.

**Fahim Bin Sultan Al Qasimi**  
**Chairman of the Board of Directors of the**  
**Securities & Commodities Authority**

**Issued in Abu Dhabi**  
**On 11 Dhu Al-Qa'da 1421 Hijri**  
**Corresponding to 5/2/2001 AD**