

SECURITIES (COMPENSATION FUND) REGULATIONS 2010

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SECURITIES (COMPENSATION FUND) REGULATIONS 2010

In exercise of the powers conferred by section 60(b)(6) of the Maldives Securities Act (Act No: 2/2006), the Capital Market Development Authority has made the following Regulations:

1. Preamble

These regulations may be cited as the Securities (Compensation Fund) Regulations 2010 and shall come into operation on 10th October 2010.

The objective of these regulations is to establish a Fund to be known as the *Compensation Fund* for the purpose of compensating persons who suffer pecuniary loss from any defalcation or fraud committed by any licensed dealer, its representative or investment adviser or any employee of such dealer or investment adviser or by any officer or employee of a Stock Exchange;

To have recourse against any person, the actions or inactions of which, have resulted in a payment from the Fund.

2. Interpretation

In these regulations:

“Act means the Maldives Securities Act 2/2006;

“Compensation Fund” or “Fund” has the same meaning as is assigned to that expression under section 60(b) 6 of the Maldives Securities Act;

“Authority” means Capital Market Development Authority established under the Maldives Securities Act;

“Board” means board of directors of Capital Market Development Authority;

“Licensed Entity” has the same meaning as in the Maldives Securities Act;

3. Compensation Fund

(1) The Fund shall consist of –

- (a) such sums of money as may be approved by the Board for the purpose of the Fund;
- (b) such moneys as are required to be paid into the Fund by licensed persons;
- (c) such sums of money as accrue from interest and profits from monies placed in the Fund;

- (d) such sums of money recovered by or on behalf of the Authority from entities whose failure to meet their obligations to result in payments from the Fund;
 - (e) Such sums of money as are received for purposes of the Fund from any other source approved by the Board.
- (2) Moneys that have been accumulated to the Fund may be invested by the Authority in such manner as may be determined by the Board.

4. Compensation Committee

- (1) The Authority shall appoint a Compensation Committee (hereinafter referred to as the "Committee") of the Authority to make recommendations with regard to assessing and awarding compensation out of the Fund.
- (2) The Committee shall be composed of not less than three and not more than five members and the Authority shall appoint one member to be its chairman.
- (3) Where the Committee has reason to believe that a regulated person or any licensed entity has committed a default, it may publish a notice, in the form prescribed in the Schedule, inviting a qualifying client of the regulated person named in the notice who believed he has sustained loss as a result of such default to claim compensation.
- (4) A notice published under subsection (3) shall –
 - (a) be published in one or more local newspapers that are published daily and circulating generally in the Maldives.
 - (b) specify a date, not being earlier than 3 months after publication of the notice, on or before which a claim for compensation may be made under section 5.
- (5) The Committee appointed under subsection (1) shall be responsible for assessing and examining of the documents and other evidence produced in support of the claim by an application made under section (5) of these regulations. The decision of the Committee on any such assessment or award shall be referred to the Board for approval.
- (6) The Committee shall make rules approved by the Board relating to the assessment of compensation payable and the assessment of compensation by the Committee under subsection (1) shall be in accordance with such rules.
- (7) The committee shall establish procedures that are fair and reasonable in its inquiry into any claim made under these regulations.
- (8) The committee shall cause all records of its proceedings to be maintained in proper form, and to be audited.

5. Application for Compensation

- (1) Where a qualifying client of a regulated person or entity sustain a loss –
 - (c) as result of a any defalcation or fraud committed on or after the appointed day by –
 - (i) any licensed dealer, its representative or investment adviser; or
 - (ii) any employee of such dealer or investment adviser; or
 - (iii) by any officer or employee of a Stock Exchange
 - (d) in relation to regulated activity, the qualifying client may claim compensation from the Fund in respect of such loss
- (2) A claim under subsection (1) may include a claim for the costs reasonable incurred in and incidental to the making in proving of the claim.
- (3) A claim under subsection (1) shall be lodged with the Committee-
 - (a) if a notice under the regulation 4(3) has been published, on or before the date specified in the notice; or
 - (b) if no such notice has been published, within three months after the day the claimant first became aware of the default giving arise to the claim.
- (4) A claim that is not lodged with the time limit provided in the subsection (3) is barred unless the Committee determines otherwise.
- (5) The claim shall be lodged with the Committee by making an application in the prescribed form by the Committee claiming compensation from the Fund.
- (6) Subject to subsection (1), a claim shall be –
 - (a) Lodged in the form specified by the Committee for the purposes of this regulation;
 - (b) Completed and signed in accordance with such direction and instructions as are included in the form; and
 - (c) Accompanied by such documents as are specified in the form.
- (7) The Committee may accept a claim lodged otherwise than in accordance with the subsection (6)
- (8) If at any time the Committee considers it necessary so to do, it may hold an inquiry into the claim of the applicant and shall by notice in writing, inform the applicant to be present on such date or provide any information or produce any securities documents or statements of evidence, and at such time and place as may be specified in the notice. Where the applicant fails to appear or provide or produce evidence for such inquiry on the date set out in the notice or within

such longer period as the Committee may allow in any particular case, the Committee may disallow the claim.

6. Payment of Compensation

- (1) The Committee shall, after due inquiry into a claim for compensation, make its recommendation to the Board of the Authority on the following matters:
 - (a) Whether the claim should be allowed, partially allowed or disallowed;
 - (b) If the claim is allowed or partially allowed, to specify –
 - (i) The total amount of compensation determined to be payable;
 - (ii) The amount of cost payable thereon; and
 - (iii) The time of payment of the amount referred to in sub-paragraph (i) and (ii).
 - (c) If the claim is disallowed or partially allowed, the reasons for the recommendation.
- (2) Where the Board approves any claim, the amount of compensation payable and shall make an award in relation thereto. Notice of such award shall be given in writing to the applicant with 3 working days.
- (3) The maximum amount of compensation that may be paid to a claimant under these regulations shall be MRF2,500 (two thousand five hundred Rufiyaa) per claimant including the reasonable costs of and disbursements to the making and proof of the claim, less the total amount or value of all amounts or other benefits received by the claimant from a source other than the Fund in deduction of the loss.
- (4) Where the amount at credit in Fund is insufficient to pay the total amount of all the claims which have been allowed under the subsection (3) , the amount credit shall-
 - (a) to be paid to the claimant to the extent that the claim remains unpaid, shall be charged against future receipts of the Fund and paid out of the Fund when there is money available in the Fund.
 - (b) in the case of more than one claimant, be apportioned among the claimants and to the extent such claims remain unpaid, shall be charged against future receipts of the Fund and paid out of the Fund when there is money available in the Fund.
 - (c) The Committee may decide to pay the compensation by installments if it determines that it is necessary or appropriate to do so.

7. Appeal to the Board

- (1) A person aggrieved by a determination of the Committee under the section (6), may within one month of receipt of a notice of determination, appeal to the Board whose decision shall be final.

- (2) The Board may in respect of an appeal under subsection (1) –
 - (a) Affirm the determination of the Committee;
 - (b) Set aside the determination of the said Committee; or
 - (c) Substitute for the determination of the said Committee, its own determination.
- (3) The Board shall decide on an appeal within a period of three months from the date that an appeal is made to it.
- (4) Where an appeal has been made against a determination of the Committee, the said Committee shall, pending the decision of the appeal, withhold the payment of any sum directed to be paid by the determination appeal against.

8. Miscellaneous

The Authority may decide to arrange for such insurance, surety, guarantee or other financial arrangements as it considers appropriate to facilitate the administration of the Fund.

SCHEDULE

SECURITIES ACT 2/2006

Securities (Compensation Fund) Regulations 2009

NOTICE CALLING FOR CLAIMS AGAINST FUND

In the matter of
(name of regulated person)

of
(address of regulated person)

Notice is given that all persons claiming to have suffered pecuniary loss from any defalcation or fraud committed by-

- a) The above-mentioned regulated person; or
- b) Regulated entity; or
- c) officer or employee of a Stock Exchange,

and a loss is suffered in connection with the regulated activity of the regulated person,

are required to deliver to the Compensation Committee at
particulars of their claim, in writing on or before the (date)

Claims not received by the Compensation Committee on or before such date shall not be admitted and no payment in respect thereof shall be made.

Dated the
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Chairman,

Compensation Committee.