

Seychelles

Financial Services Authority Act, 2013

Financial Services Authority (Appeals Board) Regulations, 2014

Statutory Instrument 97 of 2014

Legislation as at 31 December 2015

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Financial Services Authority (Appeals Board) Regulations, 2014

Contents

1. Citation	1
2. Interpretation	1
3. Members of Appeals Board	1
4. Conflict of interest	2
5. Quorum	2
6. Secretary of Appeals Board	2
7. Appeal to Appeals Board	2
8. Procedure before Appeals Board	3
9. Defective notices of appeal	4
10. Consolidation of appeals	4
11. Adjournment	4
Schedule (Regulation 7(1))	4

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Financial Services Authority Act, 2013

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Statutory Instrument 97 of 2014

Published on 24 November 2014

Assented to on 13 November 2014

Commenced on 24 November 2014

[This is the version of this document at 31 December 2015.]

1. Citation

These regulations may be cited as the Financial Services Authority (Appeals Board) Regulations, 2014.

2. Interpretation

In these regulations, unless the context otherwise requires—

"**Act**" means the Financial Services Authority Act, 2013;

"**Appeals Board**" means the Appeals Board referred to in section 42(1) of the Act;

"**Authority**" means the Financial Services Authority established under section 3 of the Act;

"**Board**" means the Board of the Authority established under section 5 of the Act.

3. Members of Appeals Board

- (1) The Appeals Board shall consist of five members.
- (2) The Minister may, by notice published in the *Gazette*, appoint on such terms and conditions as he or she determines the following members to the Appeals Board—
 - (a) at least two legal practitioners having not less than five years experience in the laws relating to financial services, one of whom shall be appointed as chairman of the Appeals Board; and
 - (b) three other persons having qualifications and experience in the field of financial services.
- (3) A person who is or has been a member of the Board shall not be eligible to be appointed as a member of the Appeals Board.
- (4) A member of the Appeals Board shall hold office for a period of three years and shall be eligible for reappointment.
- (5) A member of the Appeals Board shall, in the performance of his duties, conduct himself in a manner that upholds the integrity of the office of the member of the Appeals Board.
- (6) The remuneration payable to a member of the Appeals Board shall be paid by the Financial Services Authority.
- (7) The Minister shall at any time terminate the appointment of a member who has been found guilty of—
 - (a) any misconduct, default or breach of trust in the discharge of that member's duties; or

- (b) an offence of such nature as renders it desirable that the member's appointment be terminated.

4. Conflict of interest

- (1) A member of the Appeals Board who has a direct or indirect interest in a matter which is the subject of appeal before the Appeals Board shall—
 - (a) give written disclosure of the nature of his interest before the hearing of the matter takes place; and
 - (b) not take part in the hearing of the matter relating to the appeal concerned.
- (2) A member of the Appeals Board who fails to declare an interest under subregulation (1) may be removed from office as a member of the Appeals Board.

5. Quorum

Three members of the Appeals Board shall constitute a quorum.

6. Secretary of Appeals Board

- (1) The Board shall appoint from amongst the staff of the Authority a Secretary to the Appeals Board and such other officers as may be considered necessary.
- (2) The Secretary shall—
 - (a) be responsible to maintain the records of the Appeals Board; and
 - (b) perform such other duties as the Appeals Board directs.

7. Appeal to Appeals Board

- (1) Any person aggrieved by the decision of the Authority, may within 90 days of the decision make an appeal against the decision to the Appeals Board in Form of notice of appeal appended in the Schedule to these regulations.
- (2) A notice of appeal under subregulation (1) shall be accompanied by—
 - (a) as many copies as the Appeals Board may direct;
 - (b) a fee of SCR250; and
 - (c) a copy of the decision appealed against.
- (3) The Secretary shall cause the notice of appeal received under subregulation (1) to be entered in a register maintained for the purpose.
- (4) The notice of appeal under subregulation (1) shall state—
 - (a) the name and address of the appellant;
 - (b) the name and address of the appellant's legal representative, if any; and
 - (c) the address for service in Seychelles;
 - (d) a brief statement of the facts and dates necessary for the decision of the Appeals Board;
 - (e) a summary of the grounds on which appeal is made;
 - (f) the relief sought by the appellant and whether an order is sought; and
 - (g) a copy of the disputed opinion, determination, direction, decision, sanction or remedy of the Authority.

- (5) The notice of appeal shall be signed by the appellant or his or her legal representative.
- (6) Where the appellant is a body corporate, the notice of appeal shall be signed by any director or other officer or a legal representative authorised by it.
- (7) Where the appellant is a partnership, the notice of appeal shall be signed by one of the partners or its legal representative authorised by the partners.
- (8) The appellant may, at any time with the permission of the Appeals Board, amend the notice of appeal.
- (9) The Appeals Board shall not grant permission under subregulation (8) where the appellant proposes a new ground for contesting the decision unless—
 - (a) such ground is based on matters of law or fact which have come to light since the appeal was made;
 - (b) it was not practicable at the time the appeal was made, to include that ground in the notice of appeal;
 - (c) it is reasonable in the circumstances to allow the amendment; and
 - (d) the request to amend the appeal is made as soon as reasonably practicable after the relevant matter of law or fact have been identified by the appellant.
- (10) An appeal against a decision of the Authority shall not be construed as a suspension of the decision of the Authority unless otherwise directed by the Appeals Board.

8. Procedure before Appeals Board

- (1) On receiving a notice of appeal, the Appeals Board shall as soon as reasonably practicable—
 - (a) send an acknowledgement of its receipt to the appellant; and
 - (b) serve a copy of the notice of appeal to the Authority.
- (2) Upon receipt of a notice of appeal, the Appeals Board shall proceed to hear the appeal on such date and time as the Appeals Board may determine.
- (3) The Appeals Board before making any order shall give the appellant an opportunity to be heard and to produce the relevant documents the appellant wish to produce.
- (4) The Appeals Board shall at the request of the appellant or on its own motion summon any witnesses to give evidence or produce document.
- (5) The Appeals Board shall—
 - (a) take into account the written decision of the Authority and any other document that forms part of the record of appeal; and
 - (b) advise the party to the proceedings of his or her right to be represented by a legal practitioner of his choice.
- (6) Where the legal practitioner representing the party to the proceedings under subregulation (5)(b) fails to attend the proceedings before the Appeals Board, the Appeals Board may proceed in his absence.
- (7) The Appeals Board shall, after hearing an appeal—
 - (a) affirm the decision of the Authority;
 - (b) vary the decision of the Authority; or
 - (c) set aside the decision of the Authority and remit the matter concerned for reconsideration by the Authority in accordance with such direction as the Appeals Board thinks fit.

- (8) A person dissatisfied with the decision of the Appeals Board may within 30 days of the decision, make an appeal to the Supreme Court.
- (9) An appeal against the decision of the Appeals Board shall not operate as a suspension of the decision of the Appeals Board unless otherwise directed by the Supreme Court.
- (10) The appellant may be notice to the Appeals Board withdraw an appeal.
- (11) All documents filed with the Appeals Board, except exhibits and forms supplied by the Board, shall be printed or typewritten on one side only of plain white paper measuring eight and one-half by eleven inches with adequate margins and shall be clearly legible, and signed by the party or his or her legal practitioner.
- (12) No document, including letters or other writings, shall be filed by a party with the Appeals Board unless service of a copy thereof is made on all parties together with the filing of proof of service.
- (13) Save as otherwise provided, the practice and procedure before the Appeals Board shall be as informal as possible, to the end that a final determination of the matter before it may be promptly reached and as far as practicable conform to the practice and procedure of the Supreme Court.

9. Defective notices of appeal

- (1) Where the Appeals Board considers that the notice of appeal is materially incomplete, or lacking in clarity, the Appeals Board may make such orders as may be necessary to ensure that the appeal is put in order.
- (2) Where the appellant has not remedied the defect pursuant to an order under subregulation (1), the Appeals Board may order that the appeal be dismissed with or without an order for costs.
- (3) Where the notice of appeal is not filed within the time, the appeal may be dismissed with or without an order for costs.

10. Consolidation of appeals

- (1) Where two or more appeals have been made in respect of the same subject matter or which involve the same or similar facts, the Appeals Board may order that the appeals or any particular issue or matter raised in the appeals be consolidated or heard together.
- (2) Before making an order under subregulation (1), the appellants and the Authority shall be invited to make representations in writing or orally on the consolidation of the proceedings.
- (3) The Secretary shall as soon as practicable notify the appellants and the Authority of any order consolidating the proceedings.

11. Adjournment

A hearing may be adjourned from time to time by the Appeals Board of its own motion or where it is shown to the satisfaction of the Appeals Board that the adjournment is required to *inter alia* permit a thorough hearing to be held or to allow the party to be represented.

Schedule (Regulation 7(1))

Form

Financial Service Authority Act, 2013

(Section 41(1))

Before the Appeals Board

Appellant

Appellant's legal representative (if any)
(furnish here complete postal address)

Vs

The Financial Services Authority

- (1) The appellant named above, hereby makes this Appeal in accordance with section 41 of the Financial Services Authority Act, 2013 against the decision of the Financial Services Authority, dated _____
- (2) The facts of the case are as under:
(here briefly mention the facts of the case)
- (3) The grounds on which the appellant relies for the purpose of this Appeal are as below:
(here mention the grounds on which the appeal is made)
- (4) In light of what is stated above, the appellant respectfully requests that the decision of the Financial Services Authority be set aside/varied in the following manner—
(here mention the manner in which the objections are made)

Verification

I, _____ (Appellant's name) in this notice of appeal or duly authorised representative do hereby declare that what is stated in this notice of appeal is true to the best of my knowledge and belief and nothing has been hidden hereunder.