

3 JANUARY 2017

**NEX EXCHANGE
DISCIPLINARY & APPEALS
PROCEDURES**

INTRODUCTION

This document sets out the binding obligations of **issuers** and **member firms** in relation to investigations, enquiries, and **disciplinary proceedings** conducted by **NEX Exchange**. This document also sets out the **procedures** which **NEX Exchange** will follow in respect of:

- **disciplinary proceedings** against **issuers** or **member firms** (collectively referred to in paragraphs 13 to 56 this document as **respondents**) in relation to a breach of the **NEX Exchange rules**;
- appeals in respect of (i) disciplinary decisions of the **disciplinary committee**, and (ii) decisions in non-disciplinary cases concerning membership and admission to trading taken by **MAEC**;
- complaints referred to the **appeals committee**.

In the event of a conflict between the **procedures** and the provisions of other **rules** the **procedures** shall prevail.

The glossary at the back of this document contains the defined terms used and shown in **bold** throughout.

INVESTIGATIONS

Aims

1. **NEX Exchange** will aim to ensure that investigations conducted by **NEX Exchange** into potential breaches of the **rules** are objective, thorough and completed as quickly as is practicable.

Initiating an investigation

2. **NEX Exchange** may investigate the conduct of a **member firm** and/or **issuer** where it suspects that a breach of the **rules** may have occurred.
3. Investigations by **NEX Exchange** conducted in accordance with paragraphs 2 to 11 will be undertaken by the **regulation department** as instructed by the **director of regulation**.

Requirement to provide information

4. **NEX Exchange** or any **person** appointed by it may, for the purpose of determining the compliance of a **member firm** and/or **issuer** with the **rules**, require a **member firm** and/or **issuer** to provide information or to provide such assistance (with or without prior notice), as may be required. Such requests may include but are not limited to requests for:
 - a. the provision of accurate information in respect of transactions (including off-market transactions) in **NEX Exchange securities** in such format, as may be prescribed including but not limited to electronic format;
 - b. the production of documentation including but not limited to email, fax, letters, agreements, orders, telephone transcripts and any other documentation in its possession, custody, power or control;
 - c. the request for an **employee** of a **member firm** and/or **issuer** to attend an interview and answer questions and provide explanations as to the conduct of the **member firm** and/or **issuer**, which answers and explanations may be recorded; and
 - d. a **member firm** and/or **issuer** to allow any **person** appointed by **NEX Exchange** to enter the **member firm** and/or **issuer's** premises during normal office hours for the purpose of inspecting the documents and other records of the **member firm** and/or **issuer** concerned.

Respondents to co-operate

5. Each **member firm** and/or **issuer** shall co-operate fully with any request for information, assistance, the production of documentation, a meeting with an **employee** or an inspection, such request to be actioned within the time frame as specified in paragraph 4, in particular, a **member firm** and/or **issuer** shall make its **employees** available for interview and shall procure that they answer all questions truthfully and comprehensively.
6. No **respondent** shall be required to produce any document that is legally privileged.
7. All information a **member firm** and/or **issuer** provides shall be full, complete, accurate and not misleading, and the **member firm** and/or **issuer** concerned shall immediately notify **NEX Exchange**

of any fact or matter which makes, or may make, any information provided false, misleading or inaccurate.

8. **NEX Exchange** may require a **member firm** and/or **issuer** to verify any information provided to it.
9. Failure of a **member firm** and/or **issuer** to comply with paragraphs 4, 5, 6,7 and 8 is a breach of the **rules** and the **procedures**.

Notification to the member firm and/or issuer

10. **NEX Exchange** may, if it considers it appropriate, notify the subject of an investigation that an investigation is in progress. In such cases, any submissions made by the **member firm** and/or **issuer** to **NEX Exchange** will be considered by **NEX Exchange** in the investigation.

Member firm and/or issuer's responsibility for its employees and agents

11. Each **member firm** and/or **issuer** is responsible for the conduct of its **employees** and agents, whose conduct shall be treated for the purposes of these **procedures** as the conduct of the **member firm** and/or **issuer** concerned.

Record keeping

12. **NEX Exchange** will store records of its investigations and corresponding documentation for a period of at least 6 years, or such other period as dictated by relevant laws and/or regulations from time to time.

DISCIPLINARY PROCEEDINGS

13. If following the conclusion of an investigation, the **regulation department** considers that it may be appropriate to impose one or more sanctions as set out in paragraphs 14 and 15, the **regulation department** will recommend that the **MAEC** agree to exercise **NEX Exchange's** powers to impose on the **respondent** one or more of the sanctions as set out in paragraphs 14 and 15.

Sanctions against issuers

14. Where the **respondent** is an **issuer**, **NEX Exchange** may impose one or more of the following sanctions subject to the provisions of paragraphs 16 to 19 below:
 - a. a private reprimand (which may be admissible in proceedings arising from any subsequent breach of the **rules** by the **issuer**);
 - b. a public censure;
 - c. a fine of up to £100,000;
 - d. withdrawal of the **issuer's securities** from trading on **NEX Exchange**; and/or
 - e. save in the case of a private reprimand, publication of such sanction and the reasons for that action.

NEX Exchange may also inform the **issuer's** regulator or any other appropriate regulatory authority of its determination that the **issuer** breached the **rules**.

NEX Exchange will ordinarily inform the **UKLA** in relation to an **issuer** of **listed securities**.

Sanctions against member firms

15. Where the **respondent** is a **member firm**, **NEX Exchange** may impose one or more of the following sanctions subject to the provisions of paragraphs 16 to 19 below:
- a. a private reprimand (which shall be admissible in proceedings arising from any subsequent breach of the **rules** by the **member firm**);
 - b. a public censure;
 - c. a fine of up to £100,000;
 - d. restrictions on the **member firm**'s business activities in **NEX Exchange**;
 - e. a suspension of membership of **NEX Exchange**;
 - f. withdrawal of membership of **NEX Exchange**; and/or
 - g. save in the case of a private reprimand publication of such sanction and the reasons for that action.

NEX Exchange may also inform the **member firm**'s regulator or any other appropriate regulatory authority of its decision that the **member firm** breached the **rules**.

Procedure following imposition of sanctions by NEX Exchange

16. Where the **regulation department**, with the approval of the **MAEC**, decides to exercise its powers under paragraphs 14 and 15, it shall, as soon as practicable, serve a **warning notice** on the **respondent**.

A **warning notice** shall, unless **NEX Exchange** is precluded by any legal or regulatory prohibition, summarise the facts upon which its determination is based, include any other information relevant to its decision, and contain particulars of the breach(es).

For the avoidance of doubt, no **warning notice** or **decision notice** shall be served in connection with a private reprimand under paragraphs 14 (a) or 15 (a) or referral to a regulatory authority under paragraphs 14 and 15.

17. If a **respondent** wishes to challenge a decision of **NEX Exchange** it may, within 10 **business days** of the date of the **warning notice**, refer (such referral to be in writing) the matter to the **disciplinary committee**. A sanction set out in a **warning notice** shall not become effective while the **respondent**'s challenge is under consideration or until a **decision notice** is served by **NEX Exchange**.
18. If a **respondent** does not refer a matter to the **disciplinary committee** within the 10 **business days** time limit specified in paragraph 17, the **regulation department** shall then issue a **decision notice** in respect of the sanctions imposed under paragraphs 14 and 15 which shall be final and binding on the **respondent**.
19. If **NEX Exchange** imposes sanctions pursuant to paragraphs 14(b), (c) or (d) on an **issuer**, or paragraphs 15 (b), (c), (d), (e) and (f) on a **member firm**, the **decision notice** shall be published as a **market notice**.

Settlement

20. **NEX Exchange** and the **respondent** may without prejudice negotiate a **consent order** in final settlement of any proceedings at any stage up until the commencement of a hearing before the **disciplinary committee** notwithstanding any referral by the **respondent** to the **disciplinary committee**.
21. All steps to agree a **consent order** shall be **market confidential information**, and may not be referred to in any proceedings before the **disciplinary committee**.
22. The terms of a **consent order** shall be agreed by the **regulation department** subject to the approval of **MAEC** and have the same effect as an order of the **disciplinary committee**, save that there is no entitlement to appeal a **consent order**. In considering appropriate settlement terms the **MAEC** shall be required to have regard to the considerations set out at paragraph 52 and the recommendation of the **regulation department** before approving a **consent order** on **NEX Exchange's** behalf.

Disciplinary committee

23. The chairman of the **disciplinary committee** will be a suitably experienced independent person appointed by **NEX Exchange**. There may be more than one chairman appointed by **NEX Exchange** where more than one **disciplinary committee** is established at any point in time to consider unrelated matters.
24. Subject to paragraph 29, a **disciplinary committee** shall have not less than three members. The chairman will appoint members to a **disciplinary committee** on a case by case basis and anyone who has been appointed will count as a member of the **disciplinary committee**. In appointing members to the **disciplinary committee**, the chairman shall have regard to the matters being referred to the **disciplinary committee** and may take such advice as to the appropriate composition of the **disciplinary committee** as he may in his discretion consider appropriate. Members of the **disciplinary committee** (other than the chairman) will be appointed from suitably qualified **persons**. No member of the **disciplinary committee** (including the chairman) shall be a member of **NEX Exchange/NEX** or employee of **NEX Exchange/NEX**, or have any interest, whether direct or indirect, in any matters before the **disciplinary committee** nor shall they be a member of the **regulation department**. It shall be the duty of each member of the **disciplinary committee** to notify the chairman of any possible conflict of interest they may have at the earliest opportunity.
25. Once a **disciplinary committee** has been established, the **Secretary** will notify the parties. Any party having any objection to the chairman or any **disciplinary committee** member shall notify the **Secretary** of the **disciplinary committee** within ten **business days** of being advised of the membership of the panel who shall in turn notify the chairman. The **disciplinary committee** excluding any member objected to and having a quorum of two, shall consider any either uphold or reject the objection. If the **disciplinary committee** upholds an objection, it may appoint another **person** to the panel to replace any relevant member and, where the upheld objection relates to the chairman, an alternative chairman will be appointed in his place. In all cases, the appointment of a replacement shall be made in accordance with the **disciplinary rules**.
26. Where a hearing of any matter referred to the **disciplinary committee** has commenced, it shall have a quorum of three (one of whom must be the chairman). A further member or members may be appointed by the chairman to replace any member unable to act for whatever reason.

27. The **disciplinary committee** shall have a **secretary** appointed by **NEX Exchange** (who may be an employee of **NEX Exchange** or **NEX**).
28. The **secretary** will carry out any administrative functions relating to the **disciplinary committee** under the direction of the chairman of the **disciplinary committee**. Any notices, notifications and other documents required to be submitted to the **disciplinary committee** must be served upon the **secretary**, who will ensure that copies are provided to the other parties, the members of the **disciplinary committee** or the legal adviser as appropriate. Any notice or communication relating to proceedings before the **disciplinary committee** shall be addressed to the **secretary**.
29. In assessing the composition of the **disciplinary committee**, the Chairman shall have regard to dealing with proceedings justly and at proportionate cost. To this end, the Chairman shall be mindful of, inter alia, the following factors:
- (i) the nature of the alleged breach;
 - (ii) the amount of money involved (if any);
 - (iii) the impact of the alleged breach;
 - (iv) the complexity of the issues; and
 - (v) ensuring that it is dealt with expeditiously and fairly.

Following consideration of the above factors, the Chairman may determine that the **disciplinary committee's** composition may derogate from the requirements of paragraph 24 and that subject to the written consent of the respondent(s) the Chairman may elect to convene a **disciplinary committee** with only him/herself acting as the **disciplinary committee** with full authority and powers afforded to such committee.

Powers of the disciplinary committee

30. The **disciplinary committee** shall have power to confirm, modify or quash any or all of the sanctions set out in a **warning notice** issued pursuant to paragraph 16. Except in circumstances where the **disciplinary committee** decides to quash a **warning notice**, the decision will be implemented by the **regulation department** serving a **decision notice** on the **respondent**. In the event that an appeal is filed pursuant to paragraph 57, the serving of a **decision notice** will be deferred pending consideration of such appeal. A **decision notice** shall be published as a **market notice**.

Confidentiality

31. Other than as set out in the **procedures**, and other than as between the parties and their respective advisers, all parties and their advisers shall keep confidential any information disclosed for the purpose of bringing or defending **disciplinary proceedings** save where disclosure is permitted or required by law.

Mode of referral to the disciplinary committee

32. Where **NEX Exchange** has been notified of a referral made by a **respondent** in response to a **warning notice** pursuant to paragraph 16, **NEX Exchange** shall prepare and (through the duly appointed **secretary** for the particular referral) serve a statement of case together with copies of

all documents relied upon. The statement of case shall give particulars of the alleged **rule** breach, and summarise the facts upon which the determination of **NEX Exchange** is based.

33. In the case of a **member firm** or **issuer**, where a matter involves more than one **member firm** or **issuer**, but which concerns related matters, the **disciplinary committee** may hear all such cases at the same time, unless it would not be fair and practicable to do so.

Procedure following service of a statement of case

34. Following service of a statement of case, the **respondent** may submit to the **disciplinary committee** a statement in response and shall submit a statement of all material facts and attach to it copies of all documents relied upon. This defence shall be served within 20 **business days** of the referral to the **disciplinary committee**.

Directions

35. Any party to proceedings before the **disciplinary committee** may apply at any time for directions in relation to any aspect of the proceedings. The **disciplinary committee** may, if it considers it relevant, issue directions and take such other steps as they may deem appropriate and generally for the just, efficient and expeditious determination and presentation of the issues. Such directions may include but are not limited to:
- a. fixing a time and place for any pre-hearing review and any hearing;
 - b. with the written consent of all the parties, directing that the hearing or any part of the hearing shall proceed by written representations;
 - c. recording any admissions made by any party and any request to any party to make admissions;
 - d. directing any party to indicate whether it admits any particular facts or documents;
 - e. directing any party to disclose and serve copies of any documents;
 - f. setting any time limits for any purpose of the proceedings;
 - g. extending or abridging time limits;
 - h. adjourning the pre-hearing review, with such orders as it thinks fit;
 - i. granting permission to amend (including adding documents to) any statement submitted to the **disciplinary committee**;
 - j. varying any previous directions; and
 - k. making any order in favour of **NEX Exchange** for the payment of costs of or in connection with pre-hearing preparation or any pre-hearing review.
36. The chairman of the **disciplinary committee** sitting alone may give any directions or may hold one or more pre-hearing reviews for the purposes of paragraph 35.

The Hearing

37. The **disciplinary committee** shall hear and determine matters referred to it by **NEX Exchange** or a **respondent** within 40 **business days** of the referral pursuant to paragraph 17 or the serving of a statement of response pursuant to paragraph 34, whichever comes later. The parties will be given not less than 3 **business days**' notice in writing of the time and place of any pre-hearing review

and 7 **business days'** notice in writing of the time and place of the hearing by the **secretary**. A shorter notice period may be agreed between the **respondent** and **NEX Exchange**.

38. Any party may submit evidence to the **disciplinary committee** at any time until 2 **business days** before the hearing. The **disciplinary committee** may at their discretion accept and consider evidence submitted after this time.
39. Unless otherwise ordered by the **disciplinary committee**, at the hearing each party may present evidence or call witnesses, who may be cross-examined and re-examined by the relevant parties and questioned by, and make submissions to, the **disciplinary committee**.
40. Where any allegation has been proved to the satisfaction of the **disciplinary committee**, representations made by any of the parties will be taken into account in deciding whether to confirm, modify or quash a sanction set out in a **warning notice** in addition to a consideration of the matters prescribed in paragraph 52.
41. The **disciplinary committee** shall not be bound by any rule of law or court procedure concerning the admissibility of evidence. At a hearing, the **disciplinary committee**:
 - a. may admit any evidence whether oral or written, whether direct or hearsay;
 - b. make any directions which may be given at a pre-hearing review, and vary any direction which has been made; and
 - c. make all such directions with regard to the conduct of any procedure at the hearing as the **disciplinary committee** considers appropriate for securing a proper opportunity for each party to present its case and otherwise as may be just.
42. When considering whether a **respondent** has breached the **rules**, the **disciplinary committee** shall take into account any evidence before them and the circumstances in which the breach of the **rules** occurred. The **disciplinary committee** shall adopt a civil standard of proof.
43. Any finding of fact of any court of competent jurisdiction, or other tribunal or other regulatory authority, including the **FCA**, which has not been set aside and is not subject to appeal, may be taken by the **disciplinary committee** as conclusive evidence of that fact.
44. All proceedings before the **disciplinary committee** will be confidential and conducted in private. However, any party to the proceedings may ask for directions in accordance with paragraphs 34 and 35 to have any **disciplinary committee** proceedings conducted in public, in which case the **disciplinary committee** shall decide whether the public should be admitted to such proceedings. Should the public be admitted, the **disciplinary committee** may give directions as to any reporting of the proceedings including directions as to any statements issued to the press by the parties.
45. Any party may be legally represented at any interview, pre-hearing review or hearing.
46. If any party fails to attend or be represented at a pre-hearing review or a hearing, the **disciplinary committee** may proceed in the absence of that party and may in the absence of that party make such findings as to the facts as they think appropriate.

Records of disciplinary committee proceedings

47. A record of any pre-hearing review will be made at the request of any party to the proceedings or if the chairman of the **disciplinary committee** conducting the pre-hearing review so decides. A transcript or copy of the record may be made available to a party on payment of the cost of making such transcript.
48. A record of a hearing will be made. A transcript or copy of the record will be made available to a party on payment of the cost of making such transcript.

Disciplinary committee deliberations and decisions

49. The **disciplinary committee** may deliberate at any time. The **disciplinary committee** may adjourn any pre-hearing review and any hearing at any time as the members think fit. The **disciplinary committee** is entitled to reach decisions on a majority basis. Where a majority decision is reached, this fact will not be disclosed. In the case of an equality of votes, the chairman shall have a second or casting vote
50. **NEX Exchange** or, if appropriate, any **respondent** referring a matter to the **disciplinary committee**, may at any time discontinue such proceedings in which case such proceedings shall immediately be concluded, save that the **disciplinary committee** may make such order as to costs to be awarded to **NEX Exchange** as they shall consider appropriate.
51. Following the conclusion of the hearing, the **disciplinary committee** will deliver a written decision to the parties comprising:
 - a. the decisions, including any sanction(s) to be implemented by **decision notice**;
 - b. the reasons for the decisions; and
 - c. any order for costs to be awarded to **NEX Exchange**.
52. In deciding whether to confirm, modify or quash a sanction set out in a **warning notice**, the **disciplinary committee** shall have regard to the following principles:
 - the seriousness of the **rule** breach and its market impact (in particular whether one or more market participants have been disadvantaged as a result);
 - whether the **rule** breach was deliberate, involved negligence or recklessness, or related to a systemic failure in the **respondent's** internal controls;
 - the willingness shown by the senior management of the **respondent** to implement appropriate controls to prevent further **rule** breaches of a similar nature;
 - the co-operation provided by the senior management of the **respondent** during the investigation (and in particular whether the matter was first brought to the attention of **NEX Exchange** by the **respondent** itself);
 - the disciplinary record of the **respondent**; and
 - the impact of the sanction on shareholders or clients of the **respondent**.

In respect of the seriousness of the **rule** breach and market impact the **disciplinary committee** shall consider:

 - the duration and frequency of the **rule** breach;

- the impact of the **rule** breach on the orderliness of the markets operated by **NEX Exchange**, including where public confidence or the integrity in those markets has been damaged or threatened;
- the loss or risk of loss caused to investors in **NEX Exchange** or other **market participants**; and
- the extent to which the **rule** breach departs from current market practice.

In respect of the extent to which the **rule** breach was deliberate, negligent or reckless the **disciplinary committee** may have regard to whether the **respondent's** behaviour was intentional; that is, whether the **respondent** intended or foresaw the consequences or could reasonably have foreseen the consequences. The matters to which the **disciplinary committee** may have regard include but are not limited to:

- the **respondent's** failure to comply with its internal procedures, professional advice or guidance from **NEX Exchange** itself;
- the **respondent** taking decisions beyond its field of competence; and
- evidence that the **respondent** gave consideration to the consequences of the breach.

Prior to the imposition of any sanction, the **respondent** to which the proceedings relate shall have the opportunity to make a statement in mitigation, addressing the principles set out above.

Costs

53. The **disciplinary committee** may, after giving each party to the proceedings the opportunity to make submissions as to costs, award costs to **NEX Exchange** in respect of such reasonable costs as it thinks fit. Costs will not be awarded against **NEX Exchange** unless the **respondent** can demonstrate bad faith on **NEX Exchange's** part.

Conclusion of disciplinary proceedings, payment of fines and publication of sanctions

54. Any proceeding referred to the **disciplinary committee** (or if applicable discontinuance in accordance with paragraph 50), will be concluded immediately (or following the written decision of the **appeals committee** if such matter goes to appeal) and any fine or costs ordered shall be paid within 20 **business days** of the conclusion of the **disciplinary proceedings**.
55. Following the conclusion of **disciplinary proceedings**, **NEX Exchange** may (and will do so if ordered by the **disciplinary committee** or **appeals committee**):
- a. publish the fact that **disciplinary proceedings** have been instigated; or
 - b. publish the fact that an appeal has been considered;

and in each case publish part or all of any written decision given by the **disciplinary committee** or **appeals committee**, as the case may be, or a summary of it, except where no sanction has been imposed or where the only sanction imposed is a private reprimand.

Changes to the procedures

56. The **disciplinary committee** shall have a general and unfettered power to regulate its own proceedings and may, if it thinks appropriate, waive, suspend, vary or adapt any of these **procedures** in such manner as it considers fair and reasonable in the circumstances of any particular case.

INVESTIGATIONS

Disciplinary appeals

57. Any party to proceedings before the **disciplinary committee** dissatisfied with its decision (or any part of it) may, within 10 **business days** of being notified of the written decision, appeal to the **appeals committee**. Such appeal may only be made on the grounds that:
- a. the **disciplinary committee** misdirected itself;
 - b. the decision of the **disciplinary committee** was:
 - i. one which no reasonable decision maker exercising the functions of the **disciplinary committee** could have reached;
 - ii. not supported by the evidence or was against the weight of evidence; or
 - iii. based on an error of law or a misinterpretation of the **rules**;
 - c. the sanction or other determination imposed by the **disciplinary committee** was excessive, insufficient or inappropriate; or
 - d. new evidence has become available which, had it been before the **disciplinary committee**, might reasonably be expected to have led the **disciplinary committee** to reach or to have imposed a different conclusion, provided that such evidence is new and not evidence which could (but was not) put before the **disciplinary committee**.
58. Appeals must be made by service of notice in writing, setting out the name of the **appellant**, the decision appealed against, the grounds of the appeal, the principal matters relied upon and attaching copies of any documents relied upon by the **appellant** to the **secretary** to the **appeals committee** who will, as soon as reasonably practicable, serve a copy on every other party. Where the **appellant** wishes to rely on evidence or documentation that was not before the **disciplinary committee** this shall be stated in the notice together with details of such evidence and copies of such documentation shall be attached to the notice.
59. The **appeals committee** may, at its discretion, accept an appeal prescribed in paragraph 57 after the time for making an appeal.

Appeals from MAEC Decisions (Non-Disciplinary Cases)

60. **NEX Exchange** has reserved the power to determine (i) applications for admission to trading, and (ii) certain membership decisions to the **MAEC** – including the approval of membership applications.
61. Where, in its discretion, upon a recommendation from the **regulation department** the **MAEC** considers that, as a result of a breach of the **rules**, a **member firm** no longer meets the requirements of membership (or is no longer fit and proper to be a **member firm**), it may:
- a. impose a **precautionary suspension** on the **member firm** (with or without prior notice) in the circumstances prescribed set out in paragraph 62;

- b. impose such conditions on the **member firm** as it considers appropriate (with or without prior notice), in accordance with **rule 2.18** of the **NEX Exchange Trading Rules** or paragraph A15 of the **NEX Exchange** Corporate Adviser Handbook, as appropriate;
- c. withdraw the **member firm's** membership of **NEX Exchange**;
- d. inform the **FCA** (and, if different, the **member firm's** competent authority) or any other appropriate authority of its decision that the **member firm** breached the **rules**; or
- e. combine its use of any of the powers referred to in sub-paragraphs (a) – (d) above.

A **member firm** will be informed of any decision taken in accordance with paragraph 61. A withdrawal of membership will not become effective until the relevant **member firm** has exhausted its right of appeal pursuant to paragraph 63. Unless precluded by any legal or regulatory prohibition **NEX Exchange** shall summarise the facts upon which its decision is based, include any other information relevant to its decision, contain particulars of any breach(s), and in the case of a **precautionary suspension**, set out any conditions to be satisfied for lifting the suspension.

62. Where, in the opinion of **NEX Exchange** (on the basis of the information available to it), the conduct of the **member firm** has:
 - a. impaired or is likely to impair the integrity of the markets operated by **NEX Exchange**;
 - b. poses unacceptable risks to its clients or investors in **NEX Exchange**;has caused or is likely to cause its clients to fail to breach their responsibilities under the **rules**, **NEX Exchange** may as a precaution suspend the **member firm's** activities on **NEX Exchange** forthwith (a "**precautionary suspension**").
63. An **issuer** or **member firm** dissatisfied with a non-disciplinary decision (or any part of it) made by the **MAEC** may, within 10 **business days** of being notified of the decision, appeal to the **appeals committee**. Such appeal may only be made on the grounds that:
 - a. the **MAEC** misdirected itself;
 - b. the decision of the **MAEC** was:
 - i. one which no reasonable decision maker exercising the functions of the **MAEC** could have reached;
 - ii. not supported by the evidence or was against the weight of evidence; or
 - iii. based on an error of law or a misinterpretation of the **rules**;

Proceedings of the appeals committee

64. The chairman of the **appeals committee** will be an external barrister or solicitor appointed by **NEX Exchange**. There may be more than one chairman appointed by **NEX Exchange** where more than one **appeals committee** is established at any point in time to consider unrelated matters.
65. Subject to paragraph 78, the **appeals committee** shall have at least three independent members. The chairman will appoint at least two other external independent persons to an **appeals committee** on a case by case basis. In appointing members to the **appeals committee**, the chairman shall have regard to the matters being referred and the expertise required for a particular

matter and may take such advice as to the membership of the **appeals committee** as he considers appropriate. No member of the **appeals committee** (including the chairman) shall be a member or employee of **NEX Exchange** or **NEX**, or have any interest, whether direct or indirect, in any matters before the **appeals committee**. No member of the **appeals committee** shall have been a member of the **disciplinary committee** or the **MAEC** that heard the matter. It shall be the duty of each member of the **appeals committee** to notify the chairman of any possible conflict of interest they may have at the earliest opportunity.

66. The **appeals committee** shall have a secretary appointed by **NEX Exchange** (who may be an employee of **NEX Exchange** or **NEX**).
67. The **secretary** will carry out any administrative functions relating to the **appeals committee** under the direction of the chairman. Any notices, notifications and other documents required to be submitted to the **appeals committee** must be served upon the **secretary**, who will ensure that copies are provided to the other parties or, as the case may be, the members of the **appeals committee** or the legal adviser as appropriate. Any notice or communication relating to proceedings before the **appeals committee** shall be addressed to the **secretary**.
68. Once an **appeals committee** has been established, the **secretary** will notify the parties. Any party having any objection to the chairman or any **appeals committee** member shall notify the **secretary** of the **appeals committee** within 10 **business days** of being advised of the membership of the **appeals committee**, who shall in turn notify the chairman. The **appeals committee**, excluding any member objected to and having a quorum of two, shall either uphold or reject the objection. If the **appeals committee** upholds an objection, the chairman may appoint another **person** to the **appeals committee** to replace any relevant member and, where the upheld objection relates to the chairman, an alternative chairman will be appointed in his place. In all cases, the appointment of a replacement shall be made in accordance with the **procedures**.
69. The chairman may appoint a qualified legal adviser who shall be independent of any party. Such legal adviser will not be counted as a member of the **appeals committee** but shall advise the **appeals committee** on legal matters. The **appeals committee** may replace the legal adviser at any stage in proceedings.
70. The **appeals committee** shall adopt the same procedures and may impose the same powers as the **disciplinary committee** and will complete its review as quickly as is reasonable practicable.
71. If all parties consent, such consent to be in writing addressed to the **secretary** of the **appeals committee**, the appeal may be by written submissions only.
72. The **appellant** shall prepare and (through the duly appointed **secretary** for the particular appeal) serve a statement of case together with copies of all documents relied upon. The statement of case shall set out the grounds and all material facts relied upon to contest the original decision of the **disciplinary committee** or the **MAEC**.
73. The burden of proof shall be on the **appellant** and the **appeals committee** will adopt a civil standard of proof.
74. In the case of an equality of votes, the chairman shall have a second or casting vote, which shall be exercised in favour of upholding the decision of the **disciplinary committee** or the **MAEC** on appeal. In the event that the **appeals committee** decides to modify or quash the original decision of the **disciplinary committee** or the **MAEC** orders, the **regulation department** will take all measures

necessary to implement the decision of the **appeals committee**. If the **appeals committee** upholds the original decision of the **disciplinary committee** in favour of the **appellant** the **regulation department** shall serve a **decision notice** on the **issuer** or **member firm** to confirm the contents of the **warning notice**. Such **decision notice** shall be published as a **market notice**.

75. Where a matter has been referred to the **appeals committee**, **disciplinary proceedings** will be concluded immediately following the written decision of the **appeals committee** and any fine or costs ordered shall be paid within 20 **business days** of the conclusion of the **disciplinary proceedings**.
76. The decision of the **appeals committee** is final and binding.
77. The **appeals committee** may make an order as to costs of the appeal as it shall consider appropriate.
78. In assessing the composition of the **appeals committee**, the chairman shall have regard to dealing with the appeal proceedings justly and at proportionate cost. To this end, the chairman shall be mindful of, inter alia, the following factors:
 - (i) the nature of the alleged breach;
 - (ii) the amount of money involved (if any);
 - (iii) the impact of the alleged breach;
 - (iv) the complexity of the issues; and
 - (v) ensuring that it is dealt with expeditiously and fairly.

Following consideration of the above factors, the Chairman may determine that the **appeals committee's** composition may derogate from the requirements of paragraph 65 and that subject to the written consent of the appellant(s) the Chairman may elect to convene an **appeals committee** with only him/herself acting as the **appeals committee** with full authority and powers afforded to such committee.

MISCELLANEOUS

Appeals committee's review of complaints

79. The **appeals committee** performs a limited function with respect to complaints that have previously been considered by **NEX Exchange**. If a complainant is not satisfied with **NEX Exchange's** decision it may refer the matter to the **appeals committee** for fresh consideration. The **appeals committee** may dismiss the complaint or uphold the complaint. If a complaint is upheld the **appeals committee** will recommend to the Board of **NEX Exchange** an appropriate course of action to be taken to ensure that the matters that gave rise to the complaint are rectified. If a complaint is referred, the **appeals committee** shall exercise its general and unfettered power to regulate its own proceedings to fit the circumstances of a review of a complaint and shall not necessarily be bound by these procedures. In case of a complaint, the **NEX Exchange** Complaints Procedure will apply.

Fixed penalties

80. **NEX Exchange** may in its discretion decide to impose a **fixed penalty** for any specified breach of the **rules**. **NEX Exchange** shall promulgate any **fixed penalty** by **market notice** specifying the **rule** concerned and the amount of any **fixed penalty** that will be imposed in the event of any breach of the **Rule** concerned.
81. **NEX Exchange** may impose a **fixed penalty** on a **member firm** or **issuer** for any breach of a **rule** in respect of which **NEX Exchange** has promulgated a **fixed penalty** of such amount as is in force at the time of the breach.
82. Any **fixed penalty** imposed by **NEX Exchange** will be notified to the **member firm** in accordance with paragraph 16.
83. **NEX Exchange** shall not be under any obligation to impose a **fixed penalty** even though the breach is one in respect of which **NEX Exchange** has promulgated a **fixed penalty**.

The use of funds received for penalties

84. All financial penalties imposed as a result of these **procedures** will be applied by **NEX Exchange** on a case by case basis at its absolute discretion, subject to the condition that such funds must be applied in any of the following ways:
 - a. towards meeting expenses incurred by **NEX Exchange** in the course of the investigation of the breach in respect of which the penalty is paid, or in the course of any appeal against the decision of **NEX Exchange** in relation to that breach;
 - b. for the benefit of users of **NEX Exchange** facilities; and
 - c. for charitable purposes.

Enforcing penalties

85. Where a sanction is applied in accordance with the **procedures**, **NEX Exchange** may take all such steps that it is legally entitled to in order to enforce the **respondent's** compliance with that sanction.
86. Where a **respondent** is notified of a financial penalty imposed on it as the result of the **procedures** and that penalty remains unpaid within 20 **business days** of notification, **NEX Exchange** may suspend that **respondent's** use of **NEX Exchange** facilities. Where that financial penalty remains unpaid for a further 10 **business days**, **NEX Exchange** may permanently exclude the **respondent** from using **NEX Exchange** facilities.

Retention of authority

NEX Exchange shall retain authority over any **member firm** or **issuer** under these **procedures** for the period of one year from the date it ceases to be a **member firm** or **issuer**.

GLOSSARY

In these **procedures** the following terms and expressions shall have the following meanings unless the context otherwise requires, and similar expressions shall be construed consistently with them unless the context otherwise requires:

Term	Definition
appeals committee	The committee established by NEX Exchange to hear and determine appeals from the disciplinary committee or the MAEC as the case may be
appellant	Any party making a referral to the appeals committee pursuant to paragraph 57
associate	In relation to any person , means that person's wife, husband, parent, minor child, child in full time education or step-child, any body corporate of which that person is a director, a trustee of a trust of which the beneficiaries include that person , any person who is the employee or partner of that person and, if that person is a body corporate, any subsidiary or holding company of that person and any employee of any such subsidiary or holding company
business day	As defined in the NEX Exchange Trading Rules
Companies Act	The Companies Act 2006
consent order	A bilateral settlement agreement entered into between NEX Exchange and the respondent in final settlement of any proceedings
controller	In relation to a body corporate, a person , which alone or with any associate or associates , is entitled to exercise, or control the exercise of 10% or more of the voting power at any general meeting of the body corporate or another body corporate of which it is a subsidiary
decision notice	A notice served on an issuer or member firm by NEX Exchange , under paragraphs 18, 30, and 74. A decision notice confirms the contents of a warning notice as final and binding
director of regulation	The director of the regulation department of NEX Exchange
disciplinary committee	The committee established by NEX Exchange which determines proceedings referred by the respondent under paragraph 17 of the procedures
disciplinary proceedings	Disciplinary proceedings commenced by the exercise by NEX Exchange of its powers under paragraph 14 and 15 of the procedures

Term	Definition
employee	A person employed (or formerly employed) by an issuer or member firm whether under a contract of service or for services (including a trading contract), or any person who is (or was) associated with an issuer or member firm , or in relation to an issuer or member firm any person who is (or was) exercising control (including a controller), or in the opinion of NEX Exchange is (or was) influencing or directing any part of the business or affairs of the issuer or member firm whatever their status or capacity
FCA	Financial Conduct Authority, or any successor entity
fixed penalty	A penalty, promulgated by market notice , imposing a monetary penalty in respect of a breach of a rule by a member firm and/or issuer
FSMA	Financial Services and Markets Act 2000
group company	In respect of any company, any company which is from time to time a holding company or parent undertaking of such company, a subsidiary or subsidiary undertaking of such company or a subsidiary or subsidiary undertaking of any such holding company or parent undertaking
holding company	As defined in section 1159 of the Companies Act
NEX	NEX plc, a company incorporated in England with registered company number 03611426 whose registered office is located at 2 Broadgate, London, EC2M 7UR, or any of its group companies
NEX Exchange	NEX Exchange Limited, a company incorporated in England with registered company number 4309969 whose registered office is located at 2 Broadgate, London, EC2M 7UR and the RIE , as appropriate. References to NEX Exchange shall include, where relevant, references to employees of NEX Exchange or the regulation department
NEX Exchange Trading Rules	The rules which apply to trading on NEX Exchange
issuer	The issuer of securities admitted to trading on the NEX Exchange Main Board or NEX Exchange Growth Market or any such other issuer admitted to trading on a primary market operated by NEX Exchange , where issuers are subject to appropriate criteria for the initial and ongoing admission of their securities to trading and enter into a primary market or legal relationship with NEX Exchange involving the acceptance of specified obligations
listed	Admitted to the Official List of the UKLA under Part VI of FSMA

Term	Definition
MAEC	The Membership, Admissions and Enforcement Committee
market confidential information	As defined in the NEX Exchange Trading Rules
market notice	A regulatory notice published by NEX Exchange
market participants	As defined by the term 'participant' in the NEX Exchange Trading Rules
member firm	A person admitted to membership, and subject to the continuing obligations, of NEX Exchange
parent undertaking	As defined in sections 1161, 1162 and 1173 of the Companies Act
person	An individual, corporation, partnership, association, trust or other entity as the context admits or requires
precautionary suspension	A precautionary suspension of a member firm's activities in NEX Exchange pursuant to paragraph 62
procedures	The contents of this document as amended by NEX Exchange from time to time by market notice
regulation department	The regulation department of NEX Exchange
respondent	A member firm or issuer the subject of disciplinary proceedings
RIE	Recognised Investment Exchange
rules	The rules of NEX Exchange (including appendices and schedules to them) as amended from time to time, and any market notice issued in accordance with these rules
Secretary	The Secretary of the disciplinary committee or the appeals committee (as the case may be) appointed by NEX Exchange in respect of a particular referral
security	The shares (of any class), debentures, warrants, loan stock and other instruments of an issuer including (without limitation) those investments listed in Part II of Schedule 2 of FSMA , which are eligible for admission to NEX Exchange
subsidiary	As defined in section 1159 of the Companies Act
subsidiary undertaking	As defined in sections 1161, 1162 and 1173 of the Companies Act

Term	Definition
UKLA	United Kingdom Listing Authority
warning notice	A notice served on the respondent by NEX Exchange under paragraph 16

