

THE COMPANY SECRETARIES (PROCEDURE OF INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007

[As Amended up to 10th November, 2020]

[Issued by the Ministry of Company Affairs, Published in the Gazette of India, Extraordinary, Part II, Section 3(i) vide Notification No. GSR 111(E), dated 27th February, 2007 at New Delhi]

In exercise of the powers conferred by Clauses (c) and (d) of Sub-section (2) of Section 38A, read with Sub-section (4) of Section 21 and Sub-sections (2) and (4) of Section 21B of the Company Secretaries Act, 1980 (56 of 1980), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement

(1) These rules may be called the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

(2) They shall come into force from the date of their publication in the Official Gazette.

Chapter I

Preliminary

2. Definitions and Interpretations

(1) In these rules, unless the context otherwise requires,—

- (a) “Act” means the Company Secretaries Act, 1980 (56 of 1980);
- (b) “Committee” means the Disciplinary Committee or Committees constituted by the Council under Sub-section (1) of Section 21B of the Act;
- (c) “Director” means the person appointed as Director (Discipline) by the Council under clause (b) of Sub-section (1) of Section 16 of the Act;
- (d) “Directorate” means the Disciplinary Directorate established under Sub-section (1) of Section 21 of the Act;

¹[(dd) “electronic mode” means and includes—

¹ Inserted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amendment Rules, 2020, Notification No G.S.R. 696(E), published in the Gazette of India, Extraordinary dated 10.11.2020

- (i) filing of complaint, written statement, rejoinder, affidavits, submissions and any other documents by email or any other recognised electronic means or through the online portal;
 - (ii) online payment of prescribed fees or amount of fine or cost as may be imposed by the Board of Discipline or the Disciplinary Committee;
 - (iii) appearance and hearing through video conference or other audio visual means;
 - (iv) service of notices or summons or communications by email or any other recognised electronic means;”].
- (e) “Firm” means a firm registered with the Institute under the Regulations;
- (f) “Institute” means the Institute of Company Secretaries of India constituted under the Act;
- (g) “Member” means an associate or fellow member of the Institute and includes a person who was a member of the Institute on the date of the alleged misconduct, although he has ceased to be a member of the Institute at the time of filing the complaint, initiation of the inquiry or thereafter;
- (h) “Presiding Officer” means the Presiding Officer of the Board of Discipline or Committee, as the case may be;
- (i) “Professional Address” means—
- (i) the last registered address where a member is carrying on his profession (or when he is carrying on his profession at more than one place, the principal place); or
 - (ii) the last registered place of employment or at his option, the place of his residence (if the member is employed); or
 - (iii) the last registered place of residence, (if the member neither carried on the profession nor is employed); or
 - (iv) the last registered overseas address or at his option, the place of residence in India which shall be deemed to be the professional address for the purposes of these rules.

- (j) “Regulations” means the Company Secretaries Regulations, 1982, made under the Act, as amended from time to time;
- (k) “Respondent” means a member or a firm against whom the complaint or information has been received;
- (l) “Schedule” means any Schedule or Schedules annexed to the Act.

(2) Words and expressions used but not defined in these rules and defined in the Company Secretaries Act, 1980 (56 of 1980) shall have the same meanings respectively assigned to them in that Act.

Chapter II

Procedures of Investigation related to Complaints and Information

3. Procedure for filing complaint

(1) A complaint under Section 21 of the Act against a member or a firm shall be filed in Form I, in triplicate¹ [or through electronic mode] before the Director in person or by post or courier:

Provided that the complaint sent by post or courier¹ [or through electronic mode] under this sub-rule shall be deemed to have been presented to the Director on the day on which it is received in the Directorate¹ [or uploaded on portal].

(2) A complaint filed by or on behalf of the Central Government or any State Government, shall be authorized by an officer holding a post not below the rank of a Joint Secretary or equivalent and shall be signed by an officer holding a post not below the rank of an Under Secretary or equivalent in the Central or State Government, as the case may be.

(3) A complaint filed by or on behalf of any statutory authority, such as Reserve Bank of India or Securities and Exchange Board of India, shall be authorised by an officer holding a post equivalent to the post of Joint Secretary in the Government of India and shall be signed by an officer holding a post not below the rank of an Under Secretary or equivalent in the Central or State Government, as the case may be.

¹ Inserted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amendment Rules, 2020, Notification No G.S.R. 696(E), published in the Gazette of India, Extraordinary dated 10.11.2020

(4) A complaint filed by or on behalf of a company or a firm, shall be accompanied by a resolution, duly passed by the Board of Directors of the company or the partners of the firm, as the case may be, specifically authorizing an officer or a person to make the complaint on behalf of the company or the firm.

Explanation: In the case of a bank or financial institution, the general resolution or power of attorney authorizing an officer holding a particular position to file complaints on behalf of the bank or financial institution, shall be deemed to be the specific resolution passed by the bank or financial institution concerned, for the purposes of these rules.

(5) In case of complaints filed by any Government, statutory authority, bank or financial institution, a change in the name of complainant at any later stage, shall be duly supported by a specific authorization made by an officer holding a post equivalent to that of the original complainant.

(6) Every complaint received by the Directorate shall be acknowledged by ¹[electronic mode or] ordinary post together with an acknowledgement number.

4. Fee for filing complaint

(1) Every complaint, other than a complaint filed by or on behalf of the Central Government or any State Government or any statutory authority, shall be accompanied by a fee as prescribed by the Council through regulations.

(2) The fee shall be paid ¹[through electronic mode or] in the form of demand draft drawn on any bank in India in favour of the Institute of Company Secretaries of India payable at the place where the Directorate is situated.

(3) The fee once paid shall not be refunded:

Provided that no additional fee shall be payable if the complaint is resubmitted after rectification of defect under sub-rule (5) of rule 5.

5. Registration of complaint

(1) The Director or an officer or officers authorized by the Director, shall endorse on every complaint the date on which it is received or

¹ Inserted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amendment Rules, 2020, Notification No G.S.R. 696(E), published in the Gazette of India, Extraordinary dated 10.11.2020

presented and the Director or the officer or officers so authorized, shall sign on each such endorsement.

(2) The Director or an officer or officers authorized by him shall scrutinize the complaints so received.

(3) If, on scrutiny, the complaint is found to be in order, it shall be duly registered and a unique reference number allotted to it, which shall be quoted in all future correspondence, and shall be dealt with in the manner as prescribed in Chapter III of these rules.

(4) If the subject matter of a complaint is, in the opinion of the Director, substantially the same as or has been covered by any previous complaint or information received and is under process or has already been dealt with, he shall take any of the following action, as the case may be,—

- (a) if such a previous complaint is still under the examination of the Director, then the new complaint may be clubbed with the previous complaint and in such case the fact may be conveyed to the first complainant, new complainant and respondent respectively.
- (b) if *prima facie* opinion has been formed by the Director in such a previous complaint and the case is pending before the Board of Discipline or the Committee, then the Director shall bring the new complaint before the Board of Discipline or the Committee, as the case may be, and the latter shall either club the complaint with the previous complaint or close it or ask the Director to deal with it as a separate complaint, as it deems fit.
- (c) if orders have already been passed by the Board of Discipline or the Committee on such a previous complaint, then the Director shall present the new complaint before the Board of Discipline for its closure:

Provided that even in case where the new complaint is clubbed with a previous complaint under this sub-rule, only the first complainant would be the complainant for the purposes of investigation under these rules.

(5) If, the complaint, on scrutiny, is found to be defective, including the defects of technical nature, the Director may allow the complainant to rectify the same in his presence or may return the complaint for rectification and resubmission within such time as he may determine.

(6) If, the complainant fails to rectify the defect or defects within the time allowed under sub-rule (5), the Director shall form the opinion that there is no *prima facie* case and present the complaint before the Board of Discipline for its closure.

(7) The Board of Discipline may, after the presentation of the complaint by the Director under sub-rule (6), either,-

- (a) agree with the opinion of the Director and pass an order for the closure; or
- (b) disagree with the opinion of the Director and advise him to further investigate the matter.

6. Withdrawal of a complaint

The Director, on receipt of a letter of withdrawal of a complaint by the complainant, shall place the same before the Board of Discipline or the Committee, as the case may be, and the Board of Discipline or Committee, as the case may be, may, if it is of the view that the circumstances so warrant, permit the withdrawal, at any stage, including before or after registration of the complaint:

Provided that in case the Director has not yet formed his *prima facie* opinion on such a complaint, he shall place the same before the Board of Discipline, and the Board of Discipline may, if it is of the view that the circumstances so warrant, permit the withdrawal.

7. Information

(1) Any written information containing allegation or allegations against a member or a firm, received in person or by post or courier¹[or through electronic mode], by the Directorate, which is not in Form I under sub-rule (1) of rule 3, shall be treated as information received under Section 21 of the Act and shall be dealt with in accordance with the provisions of these rules.

(2) On receipt of such an information, the sender of the information, including the Central Government, any State Government or any statutory authority, shall be, in the first instance, asked whether he or it would like to file a complaint in Form I apprising him of, the following information,—

¹ Inserted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amendment Rules, 2020, Notification No G.S.R. 696(E), published in the Gazette of India, Extraordinary dated 10.11.2020

- (a) that relatively longer time is taken for disposal of any information than the complaint;
- (b) that the person giving information will not have the right to be represented during the investigation or hearing of the case;
- (c) that the Institute will be under no obligation to inform the sender the information of the progress made in respect of the information received under sub-rule (1) including the final orders:

Provided that where the sender of the information is the Central Government, any State Government or any statutory authority, a copy of final order shall be sent to such sender.

(3) An anonymous information received by the Directorate will not be entertained by the Directorate.

Chapter III

Procedure of Investigation

8. Procedure to be followed by Director on a complaint

(1) The Director or an officer or officers authorized by the Director, within sixty days of the receipt of a complaint under rule 3, shall,—

- (a) if the complaint is against an individual member, send particulars of the acts of commission or omission alleged or a copy of the complaint, as the case may be, to that member at his professional address ¹[or at email address as per the records of the Institute or such other recognized electronic modes];
- (b) if the complaint is against a firm, send particulars of the acts of the commission or omission alleged or a copy of the complaint, as the case may be, to the firm at the address of its head office ¹[or at email address as per the records of the Institute], as entered last in the Register of Offices and Firms maintained by the Institute ¹[or such other recognized electronic modes], with a notice calling upon the firm to disclose the name or names of the member or members concerned and to send particulars of acts of commission or omission or a copy of the complaint, as the case may be, to such members:

¹ Inserted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amendment Rules, 2020, Notification No G.S.R. 696(E), published in the Gazette of India, Extraordinary dated 10.11.2020

Provided that while disclosing the name or names of the member or members, the firm shall also send a declaration signed or, as the case may be, jointly signed by the member or members concerned to the effect that he or she or they shall be responsible for answering the complaint and that the particulars of acts of commission or omission or the copy of the complaint sent to the firm by the Director had been duly received by him, her or them.

Explanation: A notice to the firm shall be deemed to be a notice to all the members who are partners or employees of that firm as on the date of registration of the complaint.

(2) A member whose name is disclosed by the firm shall be responsible for answer the complaint, provided such a member was associated, either as partner or employee, with the firm, against which the complaint has been filed, at the time of occurrence of the alleged misconduct:

Provided that if no member, whether erstwhile or present, of the firm, own responsibility for the allegation or allegations made against the firm, then the firm as a whole shall be responsible for answering the allegation or allegations and, as such, all the members who were partners or employees of that firm, as on the date of occurrence of the alleged misconduct, shall be responsible for answering the allegation or allegations as contained in the complaint.

(3) A member who has been informed of the complaint filed against him (hereinafter referred to as the respondent) shall, within 21 days of the service of a copy of the complaint, or within such additional time, not exceeding thirty days, as may be allowed by the Director, forward to the Director, a written statement in his defence.

(4) On receipt of the written statement, if any, the Director may send a copy thereof to the complainant and the complainant shall, within 21 days of the service of a copy of the written statement, or within such additional time, not exceeding thirty days, as may be allowed by the Director, forward to the Director, his rejoinder on the written statement.

(5) On perusal of the complaint, the respondent's written statement, if any, and rejoinder of the complainant, if any, the Director may call for such additional particulars or documents connected therewith either from the complainant or the respondent or any third party or parties, as he may consider appropriate:

Provided that if no reply is sent by the respondent within the time

allowed under sub-rule (3) or by the complainant within the time allowed under sub-rule (4), the Director shall presume that the respondent or the complainant, as the case may be, have nothing further to state and take further action as provided under this Chapter.

9. Examination of the Complaint

(1) The Director shall examine the complaint, written statement, if any, rejoinder, if any, and other additional particulars or documents, if any, and form his *prima facie* opinion as to whether the member or the firm is guilty or not of any professional or other misconduct or both under the First Schedule or the Second Schedule or both.

(2) (a) Where the Director is of the *prima facie* opinion that—

- (i) the member or the firm is guilty of any misconduct under the First Schedule, he shall place his opinion along with the complaint and all other relevant papers before the Board of Discipline;
- (ii) the member or the firm is guilty of misconduct under the Second Schedule or both the First and Second Schedules, he shall place his opinion along with the complaint and all other relevant papers before the Committee.

(b) If the Board of Discipline or the Committee, as the case may be, agrees with the *prima facie* opinion of the Director under clause (a) above, then the Board of Discipline or the Committee may proceed further under Chapter IV or V respectively.

(c) If the Board of Discipline or the Committee, as the case may be, disagrees with the *prima facie* opinion of the Director under clause (a) above, it shall either close the matter or advise the Director to further investigate the matter.

(3) Where the Director is of the *prima facie* opinion that the member or the firm is not guilty of any misconduct either under the First Schedule or the Second Schedule, he shall place the matter before the Board of Discipline, and the Board of Discipline,—

- (a) if it agrees with such opinion of the Director, shall pass order, for closure.

- (b) if it disagrees with such opinion of the Director, then it may either proceed under chapter IV of these rules, if the matter pertains to the First Schedule, or refer the matter to the Committee to proceed under Chapter V of these rules, if the matter pertains to the Second Schedule or both the Schedules, or may advise the Director to further investigate the matter.

(4) The Director shall, after making further investigation as advised by the Board of Discipline under sub-rule (2) or (3) of this rule or by the Committee under sub-rule (2), shall further proceed under this rule.

10. Mode of Sending Notice

(1) Every notice or letter issued by the Director, Board of Discipline, or the Committee under these rules shall be sent to the member or the firm or any other person, by registered post with acknowledgement due or speed post ¹[or at email address as per the records of the Institute or such other recognized electronic modes], except where specified otherwise in any rule.

(2) If any notice or letter is returned unserved with an endorsement to the effect that the addressee had refused to accept the notice or letter, the notice or letter shall be deemed to have been served.

(3) If the notice or letter is returned with an endorsement to the effect that the addressee cannot be found at the address given, the Director shall ask the complainant or any other person who may be in a position to provide another address of the member or firm or person whose address is found to be not correct, and on production of the correct address, a fresh notice or letter shall be issued at such address.

(4) Where the notice or letter is returned under sub-rule (3), it may be served by fixing a copy thereof in some conspicuous place at the professional address or residence of the respondent which was last registered with the Institute or in such other manner as the Board of Discipline may think fit and such service shall be deemed to be sufficient service for the purposes of these rules.

¹ Inserted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amendment Rules, 2020, Notification No G.S.R. 696(E), published in the Gazette of India, Extraordinary dated 10.11.2020

11. Certain provisions relating to complaint also to be applicable for information relating to misconduct of members

The procedure laid down for dealing with complaints in sub-rule (6) of rule 3, sub-rules (1), (2), (3) and (4) of rule 5, sub-rules (1), (2), (3) and (5) of rule 8, rule 9 and rule 10 shall also apply to information received by the Director relating to misconduct of members.

12. Time limit on entertaining complaint or information

Where the Director is satisfied that there would be difficulty in securing proper evidence of the alleged misconduct, or that the member or firm against whom the information has been received or the complaint has been filed, would find it difficult to lead evidence to defend himself or itself, as the case may be, on account of the time lag, or that changes have taken place rendering the inquiry procedurally inconvenient or difficult, he may refuse to entertain a complaint or information in respect of any misconduct made more than seven years after the same was alleged to have been committed and submit the same to the Board of Discipline for taking decision on it under sub-section (4) of Section 21A of the Act.

Chapter IV

Board of Discipline

13. Functioning of Board of Discipline

(1) All questions which come up before the Board of Discipline shall be decided by a majority of the members present and voting, and in the event of an equality of votes, the Presiding Officer or in his absence, the person presiding, shall have a second or casting vote.

(2) The quorum for any meeting of the Board of Discipline shall be two members.

(3) In the event of the Presiding Officer not being able to attend a meeting of the Board of Discipline, the member of the Council appointed under clause (b) of sub-section (1) of Section 21A of the Act shall act as the Presiding Officer.

14. Procedure to be followed by the Board of Discipline

(1) The Board of Discipline shall follow summary disposal procedure in dealing with all cases before it, as laid down in this Chapter.

(2) If the Board of Discipline decides to proceed further under clause (b) of sub-rule (2) of rule 9 or under clause (b) of sub-rule (3) of

rule 9, it shall expeditiously cause to deliver to the respondent and the complainant, a copy each of the following:

- (a) *prima facie* opinion formed by the Director; and
- (b) particulars or documents relied upon by the Director, if any, during the course of formulation of *prima facie* opinion.

(3) The Board of Discipline shall inform the respondent to file a written statement, within such time as may be specified:

Provided that the Board of Discipline may give him additional time for submitting his written statement on application by the respondent on his adducing sufficient reasons to the satisfaction of the Board of Discipline for seeking additional time:

Provided further that such additional time shall not be given more than once and if the respondent still does not submit a written statement, the Board of Discipline shall presume that he has no further submissions to make and shall proceed to decide the case on merits.

(4) The respondent shall send a copy of his written statement, along with supporting documents, to the Director and the complainant within the stipulated time.

(5) The complainant or the Director may, after receipt of the written statement, submit a rejoinder to the Board of Discipline, with a copy to the respondent, along with supporting documents, if any.

(6) The Presiding Officer of the Board of Discipline shall fix a date, hour and place of hearing ¹[including hearing through electronic mode], which shall not ordinarily be later than 45 days from the date of receipt of *prima facie* opinion and the Board of Discipline shall cause a notice to be sent of such date, hour and place to the Director, respondent and complainant and require them to appear before it in person to make oral submissions, if any.

¹[Provided that the Board of Discipline may allow any of the parties to appear through electronic mode at any hearing scheduled to be held in physical mode.]

Explanation: For the purpose of this rule, the appearance includes, unless and otherwise directed, appearance by an advocate or through any authorized representative, who may be a Chartered Accountant, Cost Accountant or Company Secretary.

¹Inserted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amendment Rules, 2020, Notification No G.S.R. 696(E), published in the Gazette of India, Extraordinary dated 10.11.2020

(7) On the date of hearing, if the respondent, in spite of the service of notice, under sub-rule (6), does not appear either in person or through his authorized representative, the Board of Discipline may proceed ex-parte and pass such orders as it may think fit or direct fresh notice to be served.

(8) The Board of Discipline may, on such terms as it thinks fit, and at any stage of the proceedings, adjourn the hearing:

Provided that such adjournment shall not be given more than once at any stage of the proceedings.

(9) The Board of Discipline shall consider the written representations, including the written statements, rejoinder and supporting documents, and the oral submission, if any made by the Director, the complainant and the respondent, and arrive at a finding on whether the respondent is guilty or not of any professional or other misconduct.

15. Orders of the Board of Discipline

(1) On arriving at a finding under sub-rule (9) of rule 14 that the respondent is guilty of professional or other misconduct, the Board of Discipline shall give the respondent an opportunity to be heard before passing any order under sub-section (3) of section 21A of the Act:

Provided that if the respondent does not appear before the Board of Discipline at the time directed to do so when given such an opportunity to be heard, the Board of Discipline shall presume that he has nothing more to represent before it and shall pass orders under sub-section (3) of Section 21A of the Act.

(2) On arriving at a finding under sub-rule (9) of rule 14 that the respondent is not guilty of professional or other misconduct, the Board of Discipline shall pass orders closing the case.

(3) The Board of Discipline shall send, free of charge, to the Director, respondent and the complainant, a certified copy of the final order ¹[through registered post or speed post or email or any other recognized electronic mode].

¹ Inserted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amendment Rules, 2020, Notification No G.S.R. 696(E), published in the Gazette of India, Extraordinary dated 10.11.2020

Chapter V

Disciplinary Committee

16. Constitution and functioning of Committee

(1) The Council may constitute a Committee and more than one Committee, if it considers necessary which may be located in one or more Regional Headquarters:

Provided that at least one Committee shall function at the place where the Directorate is situated.

(2) All questions which come up before the Committee shall be decided by a majority of the members present and voting, and in the event of an equality of votes, the Presiding Officer or in his absence, the person presiding, shall have a second or casting vote.

(3) The quorum for meeting of the Committee shall be three members, of which at least one shall be a member nominated by the Central Government under sub-section (1) of section 21B of the Act.

(4) In the event of the Presiding Officer not being able to attend a meeting of the Committee, the senior most member amongst the members nominated by the Central Government under sub-section (1) of Section 21B of the Act shall act as the Presiding Officer.

Explanation: The senior most member is the member who has been nominated earlier by the Central Government, and in case both the members are nominated on the same date, then the Central Government shall indicate the name of the senior most member, either at the time of nominating the members or on a written request for the same from the Secretary of the Institute.

(5) The Presiding Officer of the Committee constituted at place where the Directorate is situated, wherever considered appropriate, may transfer a matter from one Committee to another.

(6) The Committee shall, subject to the other provisions of the Act and these rules, regulate its own procedure for matters not covered under this Chapter.

17. Allowances to the members nominated by the Central Government

(1) ¹[The members of the Committee nominated by the Central Government would be paid ²[ten thousand rupees] as allowance for each day of sitting]:

Provided that if such a member is holding position under the Central Government or State Government or any statutory authority, he would be not be eligible for any such allowances:

Provided further that the Central Government may revise the allowances from time to time, through notification in the Official Gazette.

Explanation: For the purpose of this rule, holding position under the Central Government shall also include a person holding position under the Comptroller and Auditor General of India, Reserve Bank of India or any other organization under or controlled by Government of India, and holding position under a State Government shall also include holding position in an organization under or controlled by the State Government.

(2) The Presiding Officer and other Members of the Committee, while on tour, shall be entitled to the travelling allowance and daily allowance as admissible to them in their official capacity and in case the member is not a Government Servant, he shall be entitled to the travelling allowance and daily allowance as admissible to an officer holding a post carrying a scale of pay of a Joint Secretary to the Government of India.

18. Procedure to be followed by the Committee

(1) The Committee shall be guided by the principles of natural

¹ Substituted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amendment Rules, 2015, Notification No G.S.R. 314(E), dated 23rd April, 2015 published in the Gazette of India, Extraordinary dated 23rd April, 2015 for the following:

The members of the Committee nominated by the Central Government would be paid Rs.1,000/- as allowance for each day of sitting;

² Substituted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amendment Rules, 2018, Notification No G.S.R. 348(E), dated 9th April, 2018 published in the Gazette of India, Extraordinary dated 9th April, 2018 for the letter and figure "Rs.5000".

justice and shall follow the procedure in dealing with all cases before it, as laid down in this Chapter.

(2) If the Committee decides to proceed further under clause (b) of sub-rule (2) of rule 9 or if it receives a reference from Board of Discipline under clause (b) of sub-rule (3) of rule 9, it shall expeditiously cause to deliver to the respondent and the complainant, a copy each of the following—

- (a) *prima facie* opinion formed by the Director; and
- (b) particulars or documents relied upon by the Director, if any, during the course of formulation of *prima facie* opinion.

(3) The Committee shall inform the respondent, as the case may be to file a written statement, within such time as may be specified:

Provided that the Committee may give him additional time for submitting his written statement, on application by the respondent on his adducing sufficient reasons to the satisfaction of the Committee for seeking additional time:

Provided further that such additional time shall not be given more than once and if the respondent still does not submit a written statement, the Committee shall presume that he has no further submissions to make and shall proceed to decide the case on merits.

(4) The respondent shall send a copy of his written statement, along with supporting documents and a list of witnesses, to the Director and the complainant within the stipulated time.

(5) The complainant or the Director may, after receipt of the written statement, submit a rejoinder to the Committee, with a copy to the respondent, along with supporting documents, if any.

(6) The Presiding Officer of the Committee shall fix a date, hour and place of hearing ¹[including hearing through electronic mode], which shall not ordinarily be later than 45 days from the date of receipt of *prima facie* opinion and the committee shall cause a notice to be sent of such date, hour and place to the Director, respondent and

¹ Inserted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amendment Rules, 2020, Notification No G.S.R. 696(E), published in the Gazette of India, Extraordinary dated 10.11.2020

complainant and require them to appear before it in person to make oral submissions, if any.

¹[Provided that the Committee may allow any of the parties and witnesses to appear through electronic mode at any hearing scheduled to be held in physical mode].

Explanation: For the purpose of this rule, the appearance includes, unless and otherwise directed, appearance by an advocate or through any authorized representative, who may be a Chartered Accountant, Cost Accountant or Company Secretary.

(7) During the first hearing, the Committee shall read out the charge or charges to the respondent along with the summary of *prima facie* opinion arrived at by the Director, and ask the respondent whether he pleads guilty to the charge or charges made against him:

Provided that if the respondent does not appear for the first hearing even after one adjournment, the reading out of charge or charges along with the summary of *prima facie* opinion shall be made in his absence and the case proceeded with in accordance with the provisions of this Chapter.

(8) If the respondent pleads guilty, the Committee shall record the plea and take action as per provisions under rule 19.

(9) If the respondent does not plead guilty, then the Committee shall fix a date for examination of witnesses and production of documents.

(10) The Committee may, on application of the Director, issue notice for appearance to any of his witnesses directing him to attend or to produce any other document or material evidence.

(11) On the date so fixed, the Committee shall proceed to take all such evidence as may be produced by the Director, including oral examination of witnesses and production of documents:

Provided that the Committee may permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.

(12) After the presenting of evidence by the Director is over, the complainant shall be given an opportunity, if present during the hearing, to present any additional evidence after satisfying the Committee that

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such evidence is relevant and has not been brought forward during the presentation by the Director.

(13) The respondent shall be then called upon to enter upon his defence and produce his evidence.

(14) If the respondent applies to the Committee to issue any notice for compelling attendance of any witness for the purpose of examination or cross-examination, or the production of any document or any material object, the Committee shall issue such notice unless it considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice and such ground shall be recorded by it in writing.

(15) The witnesses summoned at the instance of the complainant under sub-rule (12) or the respondent under sub-rule (14) shall not be eligible for reimbursement of expenses incurred for attending the hearing.

(16) After evidences have been presented, the Director and the respondent shall present their arguments before the Committee:

Provided that after the Director has presented his argument, if the complainant, provided he is present during the hearing, feels that any vital argument has been left out by the Director, may present the argument, after convincing the Committee of the same.

(17) The Committee shall consider the evidences and arguments produced before it and arrive at a finding on whether the respondent is guilty or not of any professional or other misconduct.

(18) The Committee may, at the request of any of the parties before it or due to other reasons, and on such terms as it thinks fit, and at any stage of the proceedings, adjourn the hearing:

Provided that such adjournment shall not be given more than once at any stage of the proceedings.

Explanation: For the purpose of this rule, inability of the complainant, advocate, authorized representative or witness, to appear shall not be treated as a valid reason for adjournment of a hearing.

19. Orders of the Committee

(1) On arriving at a finding under sub-rule (8) or sub-rule (17) of rule 18 that the respondent is guilty of professional or other misconduct, the Committee shall give the respondent an opportunity to be heard

before passing any order under sub-section (3) of section 21B of the Act:

Provided that if the respondent does not appear before the Committee at the time directed to do so when given such an opportunity to be heard, the Committee shall presume that he has nothing more to represent before it and shall pass orders under sub-section (3) of section 21B of the Act.

(2) On arriving at a finding under sub-rule (17) of rule 18 that the respondent is not guilty of professional or other misconduct, the Committee shall pass orders closing the case.

(3) The Committee shall send, free of charge, to the Director, respondent and the complainant, a certified copy of the final order¹[through registered post or speed post or email or any other recognized electronic mode].

Chapter VI

Miscellaneous

20. Attendance of hearings by the complainant, respondent and witness

(1) The complainant and the respondent shall have the right to attend the hearings of the Board of Discipline or the Committee, as the case may be, unless ordered otherwise by the Board of Discipline or Committee, for reasons to be recorded in writing.

(2) The complainant and the respondent shall not be eligible for reimbursement of expenses incurred for attending the hearing.

(3) A witness summoned before the Committee under sub-rule (11) of rule 18 shall be eligible for reimbursement of expenses, as determined through guidelines laid down by the Council.

21. Residuary provisions

Matters relating to the procedure of investigation, conduct of cases and allowances to nominated members with respect to which no express provision has been made in these rules shall be referred in each to the Central Government for its decision and the decision of the Central Government thereon shall be binding.

¹ Inserted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amendment Rules, 2020, Notification No G.S.R. 696(E), published in the Gazette of India, Extraordinary dated 10.11.2020

FORM I

(See sub-rule (1) of Rule 3)

1	Name of the Complainant : (with membership number, if member of the Institute of Company Secretaries of India)
2	Name of the member/firm against whom complaint is being made : (with membership number/ registration number of the firm, if known)
3	Latest address, ¹ [Email address, Mobile number and Landline number] of the complainant for communication Pin Code: E-mail: Mobile: Landline:
4	Last available professional address, ¹ [Email address, Mobile number and Landline number] of the Member or the firm against whom the complaint is made Pin Code: E-mail: Mobile: Landline:

¹ Inserted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amended Rules, 2020, Notification No G.S.R. 696(E), published in the Gazette of India, Extraordinary dated 10.11.2020

5	Particulars of allegation(s) serially numbered together with corresponding clause/ part of the relevant Schedule(s), or Particulars of allegation(s) serially numbered together with clause/part of the relevant schedule(s) under which the alleged acts of commission or omission or both would fall	1. 2. 3. 4. 5.
6	Particulars of evidence(s) adduced in support of the allegations(s) made	
7	Name(s) of person who have knowledge of the facts of the case	

Date:

Place:

Signature of the Complainant

VERIFICATION

I,....., the Complainant, do hereby declare that what is stated above is true to the best of my information and belief .

Verified today theday of.....20..... at.....

Date:

Place:

Signature of the Complainant

¹[Note :- Please enclose any relevant proof of identity and address: Aadhaar Card/ Voter Election Card/Passport /Driving License]

¹ Inserted by the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amended Rules, 2020, Notification No G.S.R. 696(E), published in the Gazette of India, Extraordinary dated 10.11.2020

