

CODE OF CONDUCTS FOR ARBITRATOR/MEDIATOR INDONESIAN CAPITAL MARKET ARBITRATION BOARD

CHAPTER I CODE OF CONDUCTS FOR BAPMI'S ARBITRATOR/MEDIATOR

Article 1 Code of Conduct on the Institution and Profession

Arbitrator/Mediator of the Indonesian Capital Market Arbitration Board (BAPMI) must at all times:

- (1) devoted to One and the Only God and upholding the State Law of the Republic of Indonesia on the basis of Five State Ideology Principles (*Pancasila*) and the State Constitution 1945 (*Undang-Undang Dasar 1945*);
- (2) trustworthy, professional, objective, prudent, and responsible in performing his/her duties;
- (3) oriented toward and upholding justice;
- (4) explore, follow, and understand the legal values existing in the society, particularly Capital Market society;
- (5) independent and impartial;
- (6) make judgment in accordance with the provisions of laws as well as on the basis of fairness and justice (*ex aequo et bono*);
- (7) well-mannered, firm, and wise in presiding over any hearing, in terms of both utterance and manners;
- (8) maintain the integrity and orderly of any hearing;
- (9) respect the rights of the Parties to be heard for their accounts;
- (10) maintain the confidentiality of any data and information received, known, or acquired from or in relation to the examination of a dispute or controversy resolved through BAPMI Arbitration or Mediation;
- (11) avoid any conflict of interest whilst performing his/her duties;
- (12) make the best efforts to make award within an agreed or specified time period;

Article 2 Code of Conduct on Work Relationship

BAPMI Arbitrator/Mediator must at all times:

- (1) maintain self-esteem, dignity and reputation of other fellow Arbitrators/Mediators, Arbitration/Mediation institutions, and BAPMI, both either inside or outside the hearing session;
- (2) possess the awareness of, loyalty toward, and appreciation on Arbitrator/Mediator profession, Arbitration/Mediation institutions, and BAPMI;
- (3) maintain and nurture good work relationship with and mutual respect to other BAPMI Arbitrators/Mediators, BAPMI Management, and BAPMI Honorary Council.

Article 3

Code of Conduct on Maintaining Self Integrity

BAPMI Arbitrator/Mediator must not:

- (1) commit any acts detrimental and contradictory to public interest and public order;
- (2) commit any acts inflicting legal defects on his/her award;
- (3) misuse his/her power and authority in the personal or group interest;
- (4) conduct his profession or occupation detrimental and contradictory to the dignity and integrity of an Arbitrator/a Mediator;
- (5) hold such other position or capacity detrimental to his/her freedom and autonomy in performing his/her duties as an Arbitrator/a Mediator;
- (6) receive assistance or gifts in any form whatsoever, either directly or indirectly, intended to or presumably to or may affect his/her judgment;
- (7) seek fame and publicity out of the dispute or controversy he/she is handling.

CHAPTER II

MONITORING AND ENFORCEMENT OF CODE OF CONDUCT

Article 4

- (1) Honorary Council receives and examines any complaints with respect to any alleged violation against Code of Conduct committed by BAPMI Arbitrators/Mediators.
- (2) Any violations against Code of Conduct will be subject to a sanction given by Chairman of BAPMI in accordance with the Decision of Honorary Council by taking account of the degree of such violations.
- (3) Sanction or punishment given to Arbitrator/Mediator proved to have committed violation against Code of Conduct may be in form of:
 - a. verbal or written reminder;
 - b. written warning;
 - c. temporary suspension as BAPMI Arbitrator/ Mediator;
 - d. termination as BAPMI Arbitrator/Mediator.
- (4) Any costs incurred during the examination on the violation against Code of Conduct will be borne by BAPMI;
- (5) Procedures of submission of reporting/complaining on any alleged violation against Code of Conduct, examination process, decision making process and the implementation of the decision will be further regulated in the Procedures as set forth in the Annex to this Code of Conduct.

CHAPTER III **MISCELLANEOUS**

Article 5

- (1) This Code of Conduct is ratified in Annual General Meeting of BAPMI Members convened in Jakarta on 30 June 2004 and declared effective as from the date of the closing of such Meeting.
- (2) Any further formulation of any matters that have not been regulated in this Code of Conduct and/or its amendment thereto will be conveyed to Honorary Council which is obliged to report such addendum/amendment to the subsequent General Meeting of BAPMI Members in accordance with the following procedures;
 - a. Any members of BAPMI, BAPMI Management, and/or BAPMI Honorary Council have the right to submit a proposal of amendment and/addendum to the Code of Conduct;
 - b. Any members of BAPMI, BAPMI Management, and/or BAPMI Honorary Council wishing to make a proposal of amendment and/addendum to the Code of Conduct must submit it in writing completed with the reasons therefore and the amendment draft and/or addendum draft to the Chairman of BAPMI. Such proposal of amendment and/addendum to the Code of Conduct from the members of the Management submitted to the Chairman of BAPMI will subsequently be reviewed and decided in a Management Meeting;
 - c. Chairman will notify all the members of the Honorary Council regarding proposal of amendment and/addendum to the Code of Conduct as referred to hereinabove not later than 5 (five) working days after the receipt date of such proposal.
 - d. The Honorary Council, within no later than 15 (fifteen) working days after receiving the notification from the Chairman as referred to hereinabove must convene the first meeting to discuss the proposal of amendment and/addendum to the Code of Conduct.
 - e. The Honorary Council has full authority to make decision as to whether to accept or to reject such proposal of amendment and/addendum to the Code of Conduct.
 - f. The decision as referred to hereinabove will be made through deliberation to reach consensus or by common majority voting (more than a half of the number of the members of the Honorary Council are present). Decision may also be made in circular resolution provided that, however, such proposal is approved and signed off by all the members of the Honorary Council.

ANNEX
CODE OF CONDUCTS FOR ARBITRATOR/MEDIATOR
INDONESIAN CAPITAL MARKET ARBITRATION BOARD

PROCEDURES
ENFORCEMENT OF CODE OF CONDUCT

Article 1
Complaints

- (1) The Honorary Council will accept written complaint from the Management or any other party through the Management regarding any alleged violation against the Code of Conduct committed by BAPMI Arbitrator/ Mediator.
- (2) If the Management receives a complaint letter as referred to paragraph (1) above from such other party, the Management must forthwith submit such complaint to the Honorary Council not later than 5 (five working days) as from the receipt date of such proposal.
- (3) The complaint letter as referred to in paragraph (1) above must be submitted to the Honorary Council by specifying and clarifying the name and the interest of the complaining party (-ies), name(s) of BAPMI Arbitrator(s)/Mediator(s) allegedly committing violations, types of violations committed, time of violations, and such other evidences supporting such allegation.
- (4) Not later than 10 (ten) days after the Honorary Council receives a complaint, the Honorary Council must have set the date and day of the first hearing and served a summons through registered mail or courier services to the complaining party (-ies), and the complained party (-ies) with a copy delivered to the Chairman of BAPMI. Such summons must be delivered within no later than 5 (five) days before the first hearing is held, excluding the date of mailing and the date of the hearing.
- (5) Summons must specify (a) reason for the summons to the hearing, (b) day, date, and venue of the hearing by attaching copy of complaint letter together with the attachment thereto and copy of these Procedures such that the parties concerned know the procedures of the hearing process, and (c) the complained party's obligation to submit a response in the first hearing.

Article 2
Examination

- (1) If the complaining party (-ies) does not appear without any legal reason in the first hearing, the complaint will be declared dismissed.

- (2) If the complained party (-ies) does not appear without any legal reason in the first hearing, the Honorary Council will serve the second summons within a period specified by the Honorary Council with due observance of the provision of paragraph (5) hereunder. If the complained person does still not appear without any legal reason in the second hearing, the complaint will be examined and decided in the absence of the complained person.
- (3) The complained party (-ies) must submit a written response together with any necessary evidences in triplicate in the first hearing.
- (4) If the complained party (-ies) fails to submit a written response in the first hearing, the Honorary Council will give the opportunity to the said person to submit a response in the second hearing held at any time designated by the Honorary Council with due observance of the provision of paragraph (5) hereunder. Should the complained party (-ies) fail to provide the response in the second hearing, it is deemed that he/she waives his/her right to respond and the complaint will be examined and decided without the complained person's response.
- (5) Summons after the first hearing must be received by the complaining party (-ies) and the complained party (-ies) within no later than 3 (three) working days before the day of the hearing, excluding the date of mailing or the date of the hearing with a copy thereof sent to the Chairman of BAPMI.
- (6) The complaining party (-ies) and the complained party (-ies) may attend to hearings or appoint his/her proxies to attend such hearings.
- (7) Before the hearing, both parties may present and/or be requested by the Honorary Council to present their reasons for and defense in respect of the complaint, evidences, and witnesses and the costs for presenting such evidences and witnesses will be borne by the party presenting such evidences and witnesses.

Article 3 **The Form of Hearing**

- (1) Hearing of any complaint regarding the alleged violation against Code of Conduct by BAPMI Arbitrator/Mediator will be convened by the Honorary Council in a Tribunal, in which more than a half of the Members of the Honorary Council are lawfully present or represented, and such hearing is presided over by one of the Members of the Honorary Council so elected by and among the Members of the Honorary Council present to preside over such hearing.
- (2) Any Member of the Honorary Council who is absent may be represented by another Member of the Honorary Council by virtue of Power of Attorney provided that, however, a Member of the Honorary Council may only represent a maximum of one other Member of the Honorary Council.

- (3) Hearing will be held closely in the presence of the Members of the Honorary Council, the complaining party (-ies) and/or their proxies, the complained party (-ies) and/or their proxies, witnesses, and BAPMI Management.

Article 4 **Decision**

- (1) Hearing may legally adopt a decision if more than a half of the Members of Honorary Council are present or represented in the first hearing.
- (2) The decision as referred to hereinabove will be made by the Honorary Council through deliberation to reach consensus or by common majority voting (more than a half of the number of the members of the Honorary Council are present) and signed by all the members of the Honorary Council present. If voting is conducted, dissenting opinion as may be existing during the decision making process shall not be specified in the decision.
- (3) Decision must have been made by the Honorary Council within no later than 30 (thirty) working days as from the date of the first hearing.
- (4) The Honorary Council will accept and examine as well as decide any complaint about the alleged violations against the Code of Conduct by Arbitrator/Mediator as the first and final decision.
- (5) Decision must set forth the recitals serving as the grounds of such decision and refer to the Articles of the Code of Conduct against which the violation is committed.
- (6) Decision will be read out by the Honorary Council in an open hearing and, within no later than 10 (ten) working days after the date that the decision is pronounced in such hearing, the copy of such decision will be delivered to complained party (-ies), the complaining party (-ies), and BAPMI Management.
- (7) Once after receiving a copy of Decision of the Honorary Council, the Management will enforce such decision and submit a report to all BAPMI Members and Chairman of Indonesian Capital Market Supervisory Agency (BAPEPAM) regarding such decision and any actions taken.