



SABA Disciplinary Code

1 Purpose

1.1 The purpose of the disciplinary action is to:

- 1.1.1 Correct behaviour that is unacceptable in the Association.
- 1.1.2 Ensure that members conduct themselves properly so as to maintain harmony and equitable working relations and to promote sound relations among themselves and the association.
- 1.1.3 Guide all members as to the conduct expected of them and what appropriate corrective measures are to be expected.
- 1.1.4 Provide steps that have to be followed when initiating and enforcing disciplinary action and/or enforcing disciplinary behaviour in the association.
- 1.1.5 Maintain harmonious and equitable working relations in the best interest of SABA and all its members.
- 1.1.6 Ensure a fair consideration of all the facts of the event leading to a disciplinary decision.
- 1.1.7 Avoid emotional or hasty and ill-considered judgements and/or actions by leadership.
- 1.1.8 Ensure that no member is disciplined without a just cause
- 1.1.9 Ensure the correct, fair, consistent and acceptable application of discipline at all levels.
- 1.1.10 ensure that each case is treated on its own merits with due consideration of SABA codes.
- 1.1.11 maintain discipline through a system of progressive and formal disciplinary action that shall be conducted in such a manner as to ensure that discipline is exercised in accordance with the rules of natural justice.

2 Scope

- 2.1 The Disciplinary Code and Procedure applies to all members.

2.2 This Disciplinary Code and Procedure is a guide and may be departed from in appropriate cases, provided that the rules of natural justice are observed as far as it is reasonable possible.

3 Definitions

3.1 **Chairperson** - Shall mean any person who was not involved in the incident giving rise to the disciplinary charges, has no personal interest in the outcome or family relationship with the accused member other than an interest in the proper running of SABA's business. The SABA EXCO shall appoint the Chairperson.

3.2 **Members** - Shall mean all members who are affiliated with SABA.

3.3 **Members Representative** - shall mean any person who has been elected by the member to represent such a member during the disciplinary proceedings, being a member of SABA or otherwise, including but not limited to a legal practitioner.

3.4 **Formal disciplinary hearing** - Shall mean a process where a Chairman is appointed to preside over a hearing which requires formal evidence to be led and where the cross examination of witnesses and the alleged offender is permitted.

3.5 **Initiator** - shall mean any person appointed by SABA EXCO who acts for and on behalf of SABA during a formal disciplinary hearing, presenting the facts and evidence of the alleged misconduct and includes a person who is not a member of SABA.

4 General

4.1 Principles and Guidelines

4.1.1 **Fairness** - The dispensing of disciplinary action shall be procedurally and substantively fair.

4.1.2 **Consistency** - SABA shall ensure that there is consistent application of discipline.

5 Responsibilities

5.1 Roles and responsibilities in the case of a Formal Disciplinary Hearing

5.1.1 The responsibility of the initiator will be to:

5.1.1.1 Where no investigation was done, investigate the alleged misconduct. Any person being interviewed during the investigation process shall do so by providing a written statement.

5.1.1.2 Where necessary to finalise the charges.

- 5.1.1.3 Inform the relevant parties of the disciplinary hearing.
- 5.1.1.4 Present the evidence on behalf of SABA at the disciplinary hearing.
- 5.1.1.5 Ensure that the outcome of the disciplinary hearing is implemented.
- 5.1.1.6 Ensure that then member are informed of the outcome of the disciplinary hearing.

5.1.2 The responsibility of witnesses will be to:

- 5.1.2.1 Avail themselves for purpose of giving evidence at a disciplinary hearing or an inquiry by an arbitrator
- 5.1.2.2 Submit truthful evidence at the disciplinary hearing or at any external appropriate forum
- 5.1.2.3 Testify openly and honestly without fear of being victimized

5.1.3 The responsibility of the Chairperson will be to:

- 5.1.3.1 Competently preside over the disciplinary hearing without bias or favour to any party
- 5.1.3.2 Ensure that the process is conducted in an orderly manner
- 5.1.3.3 Use his/her own sense of fairness based on the facts and the material before him/her
- 5.1.3.4 Ensure that the disciplinary hearing is dealt with expeditiously
- 5.1.3.5 Conduct the disciplinary hearing so as to give effect to procedural and substantive fairness requirement envisaged in this Disciplinary Code and Procedure
- 5.1.3.6 Recommend the appropriate sanction. The sanction imposed may be different from that recommended by the chairperson
- 5.1.3.7 Ensure the proper recording of disciplinary hearing proceedings
- 5.1.3.8 Analyse, report and capture the status of all disciplinary matters
- 5.1.3.9 Keep, in safe custody, all the documents and recordings that were used during the disciplinary hearing

6 Procedure

- 6.1 Any member who are deemed to have damaged the public image of SABA, as stated in the constitution, clause 8.4.7, shall be informed of this action in writing. The EXCO committee shall first give the member a reasonable opportunity of placing before them explanations and reasons for his/her action.
- 6.2 The explanations and reasons provided by the member must be in writing.
- 6.3 If any further information is required, the member will be requested to supply the information in writing.

- 6.4 After studying the allegations and the information received, the EXCO will appoint a Chairperson to chair the hearing if they decide that it warrants a hearing.
- 6.5 The member will be informed in writing regarding the decision.
- 6.6 The member will be given the opportunity to present his/her case at the hearing, be that by Skype, at the SABA AGM or any other means to ensure a fair trial.
- 6.7 After considering such explanations and reasons, the Chairman may, at his discretion, find that it is in the best interest of SABA to terminate such a member's membership of SABA.
- 6.8 The member may appeal in writing, as stated in the constitution, clause 8.4.8, to the BOR committee against the finding within fourteen (14) days of being notified of the finding.
- 6.9 The appeal will be presented to the Board of Representatives (BOR) at the next Annual General Meeting where the member and EXCO will have the opportunity to put their case forward.
- 6.10 The majority vote will decide the outcome.
- 6.11 In the case of a tie, the meeting Chairperson will have the casting vote.