

## รายการอ้างอิง

### ภาษาไทย

ตลาดหลักทรัพย์แห่งประเทศไทย, ตลาดหุ้นในประเทศไทย. พิมพ์ครั้งที่ 6.

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ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย

NEW YORK STOCK EXCHANGE, INC., ARBITRATION RULES

Arbitration

Rule 600. (a) Any dispute, claim or controversy between a customer or non-member and a member, allied member, member organization and/or associated person arising in connection with the business of such member, allied member, member organization and/or associated person in connection with his activities as an associated person shall be arbitrated under the Constitution and Rules of the New York Stock Exchange, Inc. as provided by any duly executed and enforceable written agreement or upon the demand of the customer or non-member.

(b) Under this Code, the New York Stock Exchange, Inc. shall have the right to decline the use of its arbitration facilities in any dispute, claim or controversy, where having due regard for the purposes of the New York Stock Exchange, Inc. and the intent of this Code-such dispute, claim or controversy is not a proper subject matter for arbitration

Simplified Arbitration

Rule 601. (a) Any dispute, claim or controversy, arising between a public customer(s) and an associated person or a member subject to arbitration under this code involving a dollar amount not exceeding \$10,000, exclusive of attendant costs and interest, shall upon demand of the customer(s) or by written consent of the

parties, be arbitrated as hereinafter provided.

(b) The Claimant shall file the Director of Arbitration an executed Submission Agreement and a copy of the Statement of Claim of the controversy in dispute and the required deposit, together with documents in support of the Claim. Sufficient copies of the Submission Agreement and the Statement of Claim and supporting documents shall be provided to the Director of Arbitration for each party and the arbitrator. The Statement of Claim shall specify the relevant facts, the remedies sought and whether or not a hearing is demanded.

(c) The claimant shall pay a filing fee and remit a hearing deposit as specified in Rule 629 upon filing of the Submission Agreement. The final disposition of the sum shall be determined by the arbitrators.

(d) The Director of Arbitration shall endeavor to serve promptly, by mail or otherwise, on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim. Within twenty (20) calendar days from receipt of the Statement of Claim, Respondent(s) shall serve each party with an executed Submission Agreement and a copy of Respondent's Answer. Respondent's executed Submission Agreement and Answer shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitration(s) along with any deposit required under the schedule of fees for customer disputes. The Answer shall designate all available defenses to the Claim and may set forth any related Counterclaim and/or related Third Party Claim the Respondent(s) may

have against the Claimant or any other person. If the Respondent(s) has interposed a Third Party Claim, the Respondent(s) shall serve the Third Party Respondent with an executed Submission Agreement, a copy of Respondent's Answer containing the Third Party Claim and a copy of the original Claim filed by the Claimant. The Third Party Respondent shall respond in the manner herein provided for response to the Claim. If the Respondent(s) files a related Counterclaim exceeding \$10,000, the arbitrator may refer the Claim, Counterclaim and/or Third Party Claim, if any, to a panel of no less than three(3) arbitrators in accordance with Rule 607 of this Code or, he may dismiss the Counterclaim and/or Third Party Claim without prejudice to the Counterclaimant(s) and/or Third Party Claimant(s) pursuing the Counterclaim and/or Third Party Claim in a separate proceeding. The costs to the Claimant under either proceeding shall in no event exceed the total amount specified in Rule 629.

(e) All parties shall serve promptly by mail or otherwise on all other parties and the Director of Arbitration, with sufficient additional copies for the arbitrator, a copy of the Answer, Counterclaim, Third Party Claim, amended claim or other responsive pleading, if any. The claimant, if a Counterclaim is asserted against him, shall within ten (10) calendar days either:

(i) Serve on each party and on the Director of Arbitration with sufficient additional copies for the arbitrator(s) a reply to any Counterclaim, or

(ii) if the amount of the Counterclaim exceeds the Claim, have the right to file a statement withdrawing the Claim. If the Claimant withdraws the Claim, the proceedings will be discontinued without prejudice to the rights of the parties.

(f) The dispute, claim or controversy shall be submitted to a single arbitrator knowledgeable in the securities industry selected by the Director of Arbitration. Unless the public customer demands or consents to a hearing, or the arbitrator(s) calls a hearing, the arbitrator shall decide the dispute, claim or controversy solely upon the pleading and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Director of arbitration.

(g) The Director of Arbitration may grant extensions of time to file any pleading upon a showing of good cause.

(h) The arbitrator shall be authorized to require the submission of further documentary evidence as he, in his sole discretion, deems advisable.

(i) Upon the request of the arbitrator, the Director of Arbitration shall appoint two(2) additional arbitrators to the panel which shall decide the matter in controversy.

(j) In any case where there is more than one (1) arbitrator, the majority will be public arbitrators.

(k) In his discretion, the arbitrator may, at the request of any party, permit such party to submit additional documentation relating to the pleadings.



(1) Except as otherwise provided herein, the general arbitration rules of the New York Stock Exchange, Inc. shall be applicable to proceedings instituted under this Code.

#### **Hearing Requirements-Waiver of Hearing**

Rule 602. (a) Any dispute, claim or controversy, except as provided under Rule 601 (Simplified Arbitration), shall require a hearing unless all parties waive such hearing in writing and request that the matter be resolved solely upon the pleadings and documentary evidence.

(b) Notwithstanding a written waiver of a hearing by the parties, a majority of the arbitrators may call for and conduct a hearing. In addition, any arbitrator may request the submission of further evidence.

#### **Time Limitation Upon Submission**

Rule 603. No dispute, claim or controversy shall be eligible for submission to arbitration under this Code where six years shall have elapsed from the occurrence or event giving rise to the act or the dispute, claim or controversy. This section shall not extend applicable statutes of limitation, nor shall it apply to any case which is directed to arbitration by a court of competent jurisdiction.

#### **Dismissal of Proceedings**

Rule 604. At any time during the course of an arbitration, the arbitrators may either upon their own initiative or at the request



of a party, dismiss the proceeding and refer the parties to the remedies provided by law. The arbitration shall upon the joint request of the parties dismiss the proceedings.

#### Settlements

Rule 605. All settlements upon any matter submitted shall be at the election of the parties.

#### Tolling of Time Limitation(s) for the Institution of Legal Proceedings and extension of Time Limitation(s) for Submission to Arbitration

Rule 606. (a) Where permitted by law, the time limitation(s) which would otherwise run or accrue for the institution of legal proceedings, shall be tolled when a duly executed Submission Agreement is filed by the claimant(s). The tolling shall continue for such period as the New York Stock Exchange, Inc. shall retain jurisdiction upon the matter submitted.

(b) The six year time limitation upon submission to arbitration shall not apply when the parties have submitted the dispute, claim or controversy to a court of competent jurisdiction. The six years time limitation shall not run for such period as the court shall retain jurisdiction upon the matter submitted.

#### Designation of Number of Arbitrators

Rule 607. (a) Public Controversies

(1) In all arbitration matters involving public customers and other nonmembers where the amount in controversy is \$10,000,000 or more, the Director of Arbitration shall appoint an arbitration panel which shall consist of no less than three arbitrators, at least a majority of whom shall not be from the securities industry, unless the public customer or non-member requests a panel consisting of at least a majority from the securities industry.

(2) An arbitrator will be deemed as being from the securities industry if he or she:

1. is a person associated with a member, broker/dealer, government securities dealer, municipal securities dealer, or registered investment adviser, or

2. has been associated with any of the above within the past five years or

3. is retired from or spent a substantial part of his or her business career in any of the above, or

4. is an attorney, accountant or other professional who devoted twenty percent or more of his or her professional work effort to securities industry client within the last two years.

(3) An arbitrator who is not from the securities industry shall be deemed a public arbitrator. A person will not be classified as a public arbitrator if he or she has a spouse or other member of the household who is a person associated with a registered broker, dealer, municipal securities dealer, government securities broker, government securities dealer or investment adviser.

(b) Composition of Panels

The individuals who shall serve on a particular arbitration panel shall be determined by the Director of Arbitration. The Director of Arbitration may name the chairman of each panel.

**Notice of Selection of Arbitrators**

**Rule 608.** The Director of Arbitration shall inform the parties of the names and employment histories of the arbitrators for the past ten years, as well as information disclosed pursuant to Rule 610, at least eight business days prior to the date fixed for the initial hearing session. A party may make further inquiry of the Director of Arbitration concerning an arbitrator's background. In the event that any arbitrator, after appointment and prior to the first hearing session, should resign, die, withdraw be disqualified or otherwise be unable to perform as an arbitrator, the Director of Arbitration shall appoint a new member to the panel to fill any vacancy. The Director of Arbitration shall inform the parties of the name and employment history of the replacement arbitrator for the past ten years, as well as information disclosed pursuant to Rule 610, as soon as possible. A party may make further inquiry of the Director of Arbitration concerning the background of the replacement arbitrator and within the time remaining prior to the first hearing session or the five day period provided under Rule 609, whichever is shorter, may exercise its right to challenge the replacement arbitrator as provided in Rule 609.

### Peremptory Challenge

Rule 609. In any arbitration proceeding, each party shall have the right to one peremptory challenge. In arbitrations where there are multiple claimants, respondents and/or third party respondents, the claimants shall have one peremptory challenge, the respondents shall have one peremptory challenge and the third party respondents shall have one peremptory challenge, unless the Director of Arbitration determines that the interests of justice would best be served by awarding additional peremptory challenges. Unless extended by the Director of Arbitration, a party wishing to exercise a peremptory challenge must do so by notifying the Director of Arbitration in writing within five business days of notification of the identity of the persons named to the panel. There shall be unlimited challenges for cause.

### Disclosures Required of Arbitrators

Rule 610. (a) Each arbitrator shall be required to disclose to the Director of Arbitration any circumstances which might preclude such arbitrator from rendering an objective and impartial determination. Each arbitrator shall disclose:

(1) Any direct or indirect financial or personal interest in the outcome of the arbitration;

(2) Any existing or past financial, business, professional, family or social relationships that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. Persons requested to serve as arbitrators

should disclose any such relationships which they reasonably have with any party or its counsel, or with any individual whom they have been told will be a witness. They should also disclose any such relationship involving members of their families or their current employers, partners or business associates.

(b) Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interests or relationships described in Paragraph (a) above.

(c) The obligation to disclose interests, relationships, or circumstances that might preclude an arbitrator from rendering an objective and impartial determination described in subsection (a) hereof is a continuing duty that requires a person who accepts appointment as an arbitrator to disclose, at any stage of the arbitration, any such interests, relationships, or circumstances that arise, or are recalled or discovered.

(d) Prior to the commencement of the first hearing session, the Director of Arbitration may remove an arbitrator based on information disclosed pursuant to this section. The Director of Arbitration shall also inform the parties of any information disclosed pursuant to this section, if the arbitrator who disclosed the information is not removed.

#### **Disqualification or Other Disability of Arbitrators**

Rule 611. In the event that any arbitrator, after the commencement of the first hearing session and prior to the

rendition of the award, should resign, die, withdraw, be disqualified or otherwise be unable to perform as an arbitrator, the remaining arbitrator(s) may continue with the hearing and determination of the controversy, unless such continuation is objected to by any party within five days of notification of the vacancy on the panel. Upon rejection, the Director of Arbitration shall appoint a new member to the panel to fill any vacancy. The Director of Arbitration shall inform the parties as soon as possible of the name and employment history for the past ten years of the replacement arbitrator, as well as information disclosed pursuant to Rule 610. A party may make further inquiry of the Director of Arbitration concerning the replacement arbitrator's background and within the time remaining prior to the next scheduled hearing session or the five day period provided under Rule 609, whichever is shorter, may exercise its right to challenge the replacement arbitration as provided in Rule 609.

#### Initiation of Proceedings

Rule 612. Except as otherwise provided herein, an arbitration proceeding under this Code shall be instituted as follows:

##### (a) Statement of Claim

The Claimant shall file with the Director of Arbitration an executed Submission Agreement, a Statement of Claim together with documents in support of the claim and the required deposit. Sufficient additional copies of the Submission Agreement and the Statement of Claim and supporting documents shall be provided to

the Director of Arbitration for each party and each arbitrator. The Statement of Claim should specify the relevant facts and the remedies sought. The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one copy of the Submission Agreement and one copy of the Statement of Claim.

(b) Service and Filing with the Director of Arbitration

For purposes of the Code of Arbitration Procedure, service may be effected by mail or other means of delivery. Service and filing are accomplished on the date of mailing either by first-class postage prepaid or by means of overnight mail service or, in the case of other means of service, on the date of delivery. Filing with the Director of Arbitration shall be made on the same date as service.

(c) Answer, Defenses, Counterclaims and/or Cross-Claims

(1) Within twenty business days from receipt of the Statement of Claim, the Respondent(s) shall serve each party with an executed Submission Agreement and a copy of Respondent(s) Answer. An executed Submission Agreement and Answer of the Respondent(s) shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s), along with any deposit required under the schedule of fees. The Answer shall specify all available defenses and the relevant facts that will be relied upon at hearing and may set forth any related Counterclaim the Respondent(s) may have against the Claimant, any Cross-Claim the Respondent(s) may have against any other named Respondent(s)

and any Third Party Claim against any other party or person based upon any existing dispute, claim or controversy subject to arbitration under this Code.

(2)(i) A Respondent, Responding Claimant, Cross-Claimant, Cross-Respondent or Third Party Respondent who pleads only a general denial as an answer may, upon objection by a party, in the discretion of the arbitrators, be barred from presenting any facts or defenses at the time of the hearing.

(ii) A Respondent, Responding Claimant, Cross-Claimant, Cross-Respondent or Third Party Respondent who fails to specify all available defenses and relevant facts in such party's answer, may, upon objection by a party, in the discretion of the arbitrators, be barred from presenting such facts or defenses not included in such party's answer at the hearing.

(iii) A Respondent, Responding Claimant, Cross-Claimant, Cross-Respondent or Third-Party Respondent who fails to file an answer within twenty business days from receipt of service, or unless the time to answer has been extended pursuant to paragraph (5), may, in the discretion of the arbitrators, be barred from presenting any matter, arguments or defense at the hearing.

(3) Respondent(s) shall serve each party with a copy of any Third Party Claim. The Third Party Claim shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s), along with any deposit required under the schedule of fees. Third Party Respondent(s) shall respond in the manner provided for response to the claim, as provided in (1)



and (2) above.

(4) The Claimant shall serve each party with a reply to a counterclaim within ten business days of receipt of an Answer containing a Counterclaim. The reply shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s).

(5) The Director of Arbitration may extend any time period in this section whether such be denominated as a Claim, Answer, Counterclaim, Cross-Claim, Reply or Third Party pleading.

(d) Joining and Consolidation-Multiple Parties

(1) Permissive Joinder. All persons may join in one action as claimants if they assert any right to relief jointly, severally, or arising out of the same transaction, occurrence or series of transactions or occurrences and if any questions of law or fact common to all these claimants will arise in the action. All persons may be joined in one action as respondents if there is asserted against them jointly or severally, any right to relief arising out of the same transaction, occurrence, or series of transactions or occurrences and if any questions of law or fact common to all respondents will arise in the action. A Claimant or respondent need not assert rights to or defend against all the relief demanded. Judgment may be given for one or more of the claimants according to their respective rights to relief, and against one or more respondents according to their respective liabilities.

(2) In arbitrations where there are multiple Claimants, Respondents and/or Third Party Respondents, the Director of Arbitration shall be authorized to determine preliminarily whether such parties should proceed in the same or separate arbitrations. Such determination will be considered subsequent to the filing of all responsive pleadings.

(3) The Director of Arbitration shall be authorized to determine preliminarily whether claims filed separately are related and shall be authorized to consolidate such claims for hearing and award purposes.

(4) Further determinations with respect to joining, consolidation and multiple parties under this subsection may be made by the arbitration panel and shall be deemed final.

#### Designation of Time and Place of Hearings

Rule 613. The time and place for the initial hearing shall be determined by the Director of Arbitration and each hearing thereafter by the arbitrators. Notice of the time and place for the initial hearing shall be given at least eight business days prior to the date fixed for the hearing by personal service, registered or certified mail to each of the parties unless the parties shall, by their mutual consent, waive the notice provisions under this section. Notice for each hearing, thereafter, shall be given as the arbitrators may determine. Attendance at a hearing waives notice thereof.

### Representation by Counsel

Rule 614. All parties shall have the right to representation by counsel at any stage of the proceedings.

### Attendance at Hearings

Rule 615. The attendance or presence of all persons at hearings including witnesses shall be determined by the arbitrators. However, all parties to the arbitration and their counsel shall be entitled to attend all hearings.

### Failure to Appear

Rule 616. If any of the parties, after due notice, fails to appear at a hearing or any adjourned hearing session, the arbitrators may, in their discretion, proceed with the arbitration of the controversy. In such cases, all awards shall be rendered as if each party had entered an appearance in the matter submitted.

### Adjournments

Rule 617. (a) The arbitrators may, in their discretion, adjourn any hearing(s) either upon their own initiative or upon the request of any party to the arbitration.

(b) A party requesting an adjournment after arbitrators have been appointed shall, if an adjournment is granted, deposit a fee, equal to the initial deposit of hearing session fees for the first adjournment and twice the initial deposit of hearing session



fees, not to exceed \$1,000, for a second or subsequent adjournment requested by that party. The arbitrators may waive the deposit of this fee or in their awards may direct the return of the adjournment fee.

(c) Upon receiving a third request consented to by all parties for an adjournment, the arbitrators may dismiss the arbitration without prejudice to the claimant filing a new arbitration.

#### **Acknowledgement of Pleadings**

**Rule 618.** The arbitrators shall acknowledge to all parties present that they have read the pleadings filed by the parties.

#### **General Provisions Governing Subpoenas,**

##### **Production of Documents, etc.**

##### **Rule 619. (a) Requests for Documents and Information**

The parties shall cooperate to the fullest extent practicable in the voluntary exchange of documents and information to expedite the arbitration. Any request for documents or other information should be specific, relate to the matter in controversy, and afford the party to whom the request is made a reasonable period of time to respond without interfering with the time set for the hearing.

##### **(b) Document Production and Information Exchange**

(1) Any party may serve a written request for information or documents ("information request") upon another party twenty business days or more after service of the Statement of Claim by the Director of Arbitration or upon filing of the Answer, whichever

is earlier. The requesting party shall serve the information request on all parties and file a copy with the Director of Arbitration. The parties shall endeavor to resolve disputes regarding an information request prior to serving any objection to the request. Such effort shall be set forth in the objection.

(2) Unless a greater time is allowed by the requesting party, information requests shall be satisfied or objected to within thirty calendar days from the date of service. Any objection to an information request shall be served by the objecting party on all parties and filed with the Director of Arbitration.

(3) Any response to an objection to an information request shall be served on all parties and filed with the Director of Arbitration within ten calendar days of receipt of the objection.

(4) Upon the written request of a party whose information request is unsatisfied, the matter will be referred by the Director of Arbitration to either a pre-hearing conference under paragraph (d) of this section or to a selected arbitrator under paragraph (e) of this section.

(c) Pre-Hearing Exchange

At least ten calendar days prior to the first scheduled hearing date, all parties shall serve on each other copies of documents in their possession that they intend to present at the hearing and identify witnesses they intend to present at the hearing. The arbitrator(s) may exclude from the arbitration, any document not exchanged or witnesses not identified at that time. This paragraph does not require service of copies of documents or

identification of witnesses which parties may use for cross-examination or rebuttal.

(d) Pre-Hearing Conference

(1) Upon the written request of a party, and arbitrator, or at the discretion of the Director of Arbitration, a pre-hearing conference shall be scheduled. The Director of Arbitration shall set the time and place of a pre-hearing conference and appoint a person to preside. The pre-hearing conference may be held by telephone conference call. The presiding person shall seek to achieve agreement among the parties on any issues that relate to the pre-hearing process or to the hearing, including but not limited to, the exchange of information, exchange or production of documents, identification of witnesses, identification and exchange of hearing documents, stipulations of fact, identification and briefing of contested issues, and any other matter which will expedite the arbitration proceedings.

(2) Any issues raised at the pre-hearing conference that are not resolved may be referred by the Director of Arbitration to a single public member of the Arbitration Panel for decision.

(e) Decision by Selected Arbitrator

The Director of Arbitration may appoint a single member of the Arbitration Panel to decide all unresolved issues referred to under this section. Such arbitrator shall be authorized to act on behalf of the panel to issue subpoenas, direct appearances of witnesses and production of documents, set deadlines and issue any other ruling which will expedite the arbitration proceeding or is

necessary to permit any party to fully develop its case. Decisions under this paragraph shall be made upon the papers to submitted by the parties, unless the arbitrator calls a hearing. In any claim involving a public customer the selected arbitrator shall be a public arbitrator unless the public customer demands, in writing, a securities arbitrator.

(f) Subpoenas

The arbitrator(s) and any counsel of record to the proceedings shall have the power of the subpoena process as provided by law. All parties shall be given a copy of the subpoena upon its issuance. The parties shall produce witnesses and present proofs to the fullest extent possible without resort to the subpoena process.

(g) Power to Direct Appearance and Production of Documents

The arbitrator(s) shall be empowered without resort to the subpoena process to direct the appearance of any person employed or associated with any member or member organization of the New York Sstock Exchange, Inc. and/or the production of any records in the possession or control off such persons or members. Unless the arbitrator(s) direct otherwise, the party requesting the appearance of a person or the production of documents under this section shall bear all reasonable costs of such appearance and/or production.

### Evidence

Rule 620. The arbitrators shall determine the materiality and relevance of any evidence proffered and shall not be bound by rules governing the admissibility of evidence.

### Interpretation of Code

Rule 621. The arbitrators shall be empowered to interpret and determine the applicability of all provisions under this Code which interpretation shall be final and binding upon the parties.

### Determinations of Arbitrators

Rule 622. All rulings and determinations of the panel shall be by a majority of the arbitrators.

### Record of Proceedings

Rule 623. A verbatim record of all arbitration hearings shall be kept by stenographic reporter or tape recording. If a party or parties to a dispute elect to have the record transcribed, the cost of such transcription shall be borne by the party or parties making the request unless the arbitrators direct otherwise. The arbitrators may also direct that the record be transcribed. If the record is transcribed at the request of any party, a copy shall be provided to the arbitration.

### Oaths of the Arbitrators and Witnesses

Rule 624. Prior to the commencement of the first session, an oath or a affirmation shall be administered to the arbitrators. All testimony shall be under oath or a affirmation.

### Amendments

Rule 625.(a) After the filing of any pleadings, if a party



desires to file a new or different pleading, such change must be made in writing and filed with the Director of Arbitration. The Director of Arbitration shall endeavor to serve promptly by mail or otherwise upon all other parties a copy of said change. The other parties may, within ten business days from the receipt of service, file a response with the Director of Arbitration.

(b) After a panel has been appointed, no new or different pleading may be filed except for a responsive pleading as provided for in (a) above or with the consent of the panel.

#### Reopening of Hearings

Rule 626. Where permitted by law, the hearings may be reopened by the arbitrators on their own motion or in the discretion of the arbitrators upon application of a party at any time before the award is rendered.

#### Awards

Rule 627. (a) All awards shall be in writing and signed by a majority of the arbitrators or in such manner as is required by law. Such awards may be entered as a judgment in any court of competent jurisdiction.

(b) Unless the law directs otherwise, all awards rendered pursuant to this Code shall be deemed final and not subject to review or appeal.

(c) The Director of Arbitration shall endeavor to serve a copy of the award : (i) by registered or certified mail upon all parties,

or their counsel, at the address of record; or, (ii) by personally serving the award upon the parties; or, (iii) by filing or delivering the award in such manner as may be authorized by law.

(d) The arbitrator(s) shall endeavor to render an award within thirty days from the date the record is closed.

(e) The award shall contain the names of the parties, a summary of the issues in controversy, the damages and/or other relief requested, the damage and/or other relief awarded, a statement of any other issues resolved, the names of the arbitrators, the dates the claim was filed and the award rendered, the number and dates of hearing sessions, the location of the hearing, and the signatures of the arbitrators concurring in the award.

(f) The awards shall be made publicly available, provided however, that the name of the customer party to the arbitration will not be publicly available if he or she so request in writing.

(g) In addition, arbitrators may award interest as they deem appropriate. All awards shall bear interest from the date of the award until payment at the legal rate, if any, then prevailing in the state where the award was rendered, or at a rate set by the arbitrator(s) in the award.

(h) All monetary awards shall be paid within thirty days to receipt unless a motion to vacate has been filed with a court of competent jurisdiction.

#### Agreement to Arbitrate

Rule 628. Article XI of the Constitution and Rules 600-637

shall be deemed a part of and incorporated by reference in every agreement to arbitrate under the Constitution and Rules of the New York Stock Exchange, Inc.

#### Schedule of Fees

Rule 629. (a) At the time of filing a Claim, Counterclaim, Third Party Claim or Cross-Claim, a party shall pay a non-refundable filing fee and shall remit a hearing session deposit with the Exchange in the amounts indicated in the schedules below unless such fee or deposit is specifically waived by the Director of Arbitration.

Where multiple hearing sessions are required, the arbitrator(s) may require any of the parties to make additional hearing deposits for each additional hearing session. In no event shall the amount deposited by all parties per hearing session exceed the amount of the largest initial hearing deposit made by any party under the schedule below.

(b) A hearing session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four hours or less. The forum fee for a pre-hearing conference with an arbitrator shall be the amount set forth in the schedules below as a hearing session deposit for a hearing with a single arbitrator.

(c) The arbitrators, in their awards, may determine the amount chargeable to the parties as forum fees and shall determine who shall pay such forum fees. Forum fees chargeable to the parties shall be assessed on a per hearing session basis and the aggregate

for each hearing session may equal but shall not exceed the amount of the largest initial hearing deposit deposited by any party, except in a case where claims have been joined subsequent to filing in which cases hearing session fees shall be computed as provided in paragraph (d). The arbitrators may determine in the award that a party shall reimburse to another party any non-refundable filing fee it has paid.

If a customer is assessed forum fees in connection with an industry claim, forum fees assessed against the customer shall be based on the hearing deposit required under the industry claims schedule for the amount awarded to industry parties to be paid by the customer and not based on the size of the industry claim. No fees shall be assessed against a customer in connection with an industry claim that is dismissed; however, in cases where there is also a customer claim, the customer may be assessed forum fees based on the customer claim under the procedure set out above.

Amounts deposited by a party as hearing deposits shall be applied against forum fees, if any.

In addition to forum fees, the arbitrator(s) may determine in the award the amount of costs incurred pursuant to Rules 617, 619 and 623 and, unless applicable law directs otherwise, other costs and expenses of the parties. The arbitrator(s) shall determine by whom such costs shall be borne.

If the hearing session fees are not assessed against a party who had made a hearing deposit, the hearing deposit will be refunded unless the arbitrators determine otherwise.

(d) For claims filed separately and subsequently joined or consolidated under Rule 612(d), the hearing deposit and forum fees assessable per hearing session after joinder or consolidation shall be based on the cumulative amount in dispute. The arbitrator(s) shall determine by whom such forum fees shall be borne.

(e) If the dispute, claim or controversy does not involve, disclose or specify a money claim, the non-refundable filing fee will be \$250 and the hearing session deposit to be remitted by a party shall be \$600 or such greater or lesser amounts as the Director of Arbitration or the panel of arbitrators may require, but shall not exceed \$1,500.

(f) The Exchange shall retain the total initial amount deposited as hearing session deposits by all the parties in any matter submitted and settled or withdrawn within eight business days of the first scheduled hearing session other than a pre-hearing conference.

(g) Any matter submitted and thereafter settled or withdrawn subsequent to the commencement of the first hearing session, including a pre-hearing conference with an arbitrator, shall be subject to an assessment of forum fees and costs incurred pursuant to Rules 617, 619 and 623 based on hearing sessions held and scheduled within eight business days of the Exchange receiving notice that the matter has been settled or withdrawn. The arbitrator(s) shall determine by whom such forum fees and costs shall be borne.

(h) The fee for a pre-hearing conference with an arbitrator shall be:

**SCHEDULE FOR PRE-HEARING**

**CONFERENCE WITH ARBITRATOR(S):**

<u>Amount in Controversy</u>	<u>Conference Fee</u>
\$ 1,000 or less.....	\$ 15.00
\$ 1,000.01 up to &2,500.....	\$ 25.00
\$ 2,500.01 up to \$5,000.....	\$ 100.00
\$ 5,000.01 up to \$10,000.....	\$ 200.00
\$ 10,000.01 up to \$30,000.....	\$ 300.00
\$ 30,000.01 up to \$50,000.....	\$ 300.00
\$ 50,000.01 up to \$100,000.....	\$ 300.00
\$ 100,000.01 up to \$500,000.....	\$ 300.00
\$ 500,000.01 up to \$5 million.....	\$ 300.00
Greater than \$ 5 million.....	\$ 300.00

(i) Schedule of Fees

For purpose of the schedule of fees the term "claim" includes Claims, Counterclaim, Third Party Claims or Cross-Claims. Any such claim submitted by a customer is a customer claim. Any such claim submitted by a member, allied member, registered representative, member firm or member corporation against a public customer or other non-member is an industry claim.

## CUSTOMER CLAIMANT

## DEPOSIT

Filing Fee      Simplified      Hearing

Amount of Dispute

(Exclusive of Interest  
and Expenses)

\$1,000 or less.....	\$ 15	\$15	\$ 15
\$1,000.01 to \$2,500.....	\$ 25	\$25	\$ 25
\$2,500.01 to \$5,000.....	\$ 50	\$75	\$ 100
\$5,000.01 to \$10,000.....	\$ 75	\$75	\$ 200
\$10,000.01 to \$30,000.....	\$100	N/A	\$ 400
\$30,000.01 to \$50,000.....	\$120	N/A	\$ 400
\$50,000.01 to \$100,000.....	\$150	N/A	\$ 500
\$100,000.01 to \$500,000.....	\$200	N/A	\$ 750
\$500,000.01 to \$5,000,000.....	\$250	N/A	\$1,000
Over \$5,000,000.....	\$300	N/A	\$1,500

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## INDUSTRY CLAIMANT

Amount in Dispute (Exclusive of Interest and Expenses)	Filing Fee	HEARING DEPOSIT	
		1Arb.	3Arb.
\$1,000 or less.....	\$500	\$300	\$ 600
\$1,000.01 to \$2,500.....	\$500	\$300	\$ 600
\$2,500.01 to \$5,000.....	\$500	\$300	\$ 600
\$5,000.01 to \$10,000.....	\$500	\$300	\$ 600
\$10,000.01 to \$30,000.....	\$500	\$300	\$ 600
\$30,000.01 to \$50,000.....	\$500	\$300	\$ 600
\$50,000.01 to \$100,000.....	\$500	\$300	\$ 600
\$100,000.01 to \$500,000.....	\$500	\$300	\$ 750
\$500,000.01 to \$5,000,000....	\$500	\$300	\$1,000
Over \$5,000,000.....	\$500	\$300	\$1,500

## Uniform Arbitration Code

Rule 630. The provisions of the Uniform Arbitration Code contained in Rules 600 through 629 shall also apply to controversies between members, allied members, member firms, member organizations and/or non-member who are not public customers, except insofar as such provisions specifically apply to matters involving public customers.





**Schedul of Fees for Member Controversies**

Rule 631.(a) At the time of filing a Claim, Counter-claim, Third Party Claim or Cross-Claim, a party shall pay a non-refundable filing fee and remit a hearing session deposit with the New York Stock Exchange, Inc. in the amounts indicated below:

<u>Amount in Dispute</u>	<u>Filing Fee</u>	<u>Hearing Deposit</u>
\$5,000 or less.....	\$100	\$ 200
\$5,000.01 to \$100,000.....	\$200	\$ 750
\$100,000.01 or more.....	\$300	\$1,000

(b) Where the claim or controversy does not involve or disclose a money claim, or is unspecified the filing fee will be \$300 and the hearing session deposit shall be \$1,000 per hearing session.

(c) Tthe Fee for a pre-hearing conference with an arbitrator in a member controversy shall be as follow:

<u>Amount in Dispute</u>	<u>Conference Fee</u>
\$ 5,000 or less.....	\$150
\$ 5,000.01 to \$100,000.....	\$300
\$100,000.01 or more.....	\$500

**Member Controversies**

Rule 632. Any conroversy between parties who are members, allied members, member firms or member corporations shall be submitted for arbitration to members of the Board of Arbitration, unless non-members are also parties to the controversy. If the amount (exclusive of interest and costs) involved in the

controversy is less than \$10,000 the controversy shall be heard by one arbitrator. If such amount is \$10,000 or more the controversy shall be heard by at least three but not more than five arbitrators. If non-members are also parties to such controversies, the arbitrators shall be appointed in accordance with Rule 607 unless the non-member(s) consent to arbitration before members of the Board of Arbitration.

#### Board of Arbitration

Rule 633. Promptly after the annual election of the Exchange, the Exchange, the Chairman of the Board of Directors shall appoint, subject to the approval of the Board of Directors, a Board of Arbitration to be composed of such number of present or former members, allied members and officers of member corporations of the Exchange who are not members of the Board of Directors as the Chairman of the Board of Directors shall deem necessary to serve at the pleasure of the Board of Directors or until the next annual election of the Exchange and their successors are appointed and take office.

#### Panels of Arbitrators

Rule 634. The Chairman of the Board of Directors shall from time to time appoint two panels of arbitrators, composed of persons who are residents of or have their places of business in the Metropolitan area of the City of New York. The first of such panels shall be composed of persons engaged in or retired from the

securities business and the second of such panels shall be composed of persons not engaged in the securities business. The Chairman of the Board of Directors may likewise appoint panels similar to the panels above described to serve outside the City of New York

#### Director of Arbitration

Rule 635. The Chairman of the Board, shall designate one of the officers or other employees of the Exchange as Director of Arbitration. The Director of Arbitration shall be charged with the duty of performing all ministerial duties in connection with matters submitted for arbitration for arbitration pursuant to these Rules.

#### Requirements When Using Pre-Dispute Arbitration

##### Agreements With Customers

Rule 636. (a) Any pre-dispute arbitration clause shall be highlighted and shall be immediately preceded by the following disclosure language which shall also be highlighted.

- (1) Arbitration is final and binding on the parties.
- (2) The parties are waiving their right to seek remedies in court, including the right to jury trial.
- (3) Pre-arbitration discovery is generally more limited than and different from court proceedings.
- (4) The arbitrators' award is not required to include factual findings or legal reasoning and any party's right to appeal or to seek modification of rulings by the arbitrators

is strictly limited.

(5) The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with securities industry.

(b) Immediately preceding the signature line, there shall be a statement which shall be highlighted that the agreement contains a pre-dispute arbitration clause. The statement shall also indicate at what page and paragraph the arbitration clause is located.

(c) A copy of the agreement containing any such clause shall be given to the customer who shall acknowledge receipt thereof on the agreement or on a separate document.

(d) No agreement shall include any condition which limits or contradicts the rules of any self-regulatory organization or limits the ability of a party to file any claim in arbitration or limits the ability of the arbitrators to make any award.

(e) The requirements of this section shall apply only to new agreements signed by an existing or new customer of a member or member organization after September 7, 1989.

#### **Failure To Honor Award**

**Rule 637.** Any member, allied member, registered representative or member organization who fails to honor an award of arbitration appointed in accordance with these rules shall be subject to disciplinary proceedings in accordance with Rule 476 or Article IX of the New York Stock Exchange Constitution and Rules.



## ภาคผนวก ๓

### THE SECURITIES ASSOCIATION: COMPLAINTS AND ARBITRATION

It is inevitable in all industries that, at times, customers will be dissatisfied with the service which they receive from the firms with which they are doing business. It is a matter of good practice for a regulatory body to have provisions for dealing with complaints and TSA would, no doubt, have made such provisions, even if the Financial Service Act had not made certain requirements on all SROs in this area.

#### General approach

In schedule 7, paragraph 4, the FSA requires all SROs to have effective arrangements for investigating complaints against its members and 'in appropriate cases' for the investigation to be carried out independently of the SRO. Not every complaint will involve a dispute between the customer and the member firm, but in the cases of those which do, the Act also requires TSA to make arrangements for the settlement of disputes.

Accordingly, TSA has established a complaints bureau, part of whose function will be to provide a conciliation service. The operation of the bureau is subject to the scrutiny of an independent complaints commissioner. An arbitration scheme will also be offered.

In conduct of business rule 1190, TSA requires its members to have a written procedure which sets out how the firm will deal with complaints from its customers. Firms must ensure that complaints

by customers are properly treated and must keep detailed records which can be inspected by TSA. This rule also requires firms and their employees to give every cooperation to enforcement staff and to those dealing with complaints.

#### The complaints bureau

Complaints should be made in writing, normally first to the member firm concerned. Firms must inform complainants that if they remain dissatisfied they can take the matter to TSA. Upon receipt of a complaint the Association's complaints bureau will consider whether or not it has been effectively dealt with by the member firm.

As a preliminary step, the complainant will receive a short brochure produced by TSA describing the Association's arrangements for the consideration of complaints and for the conciliation and arbitration of disputes. Where the complaint has been considered by the firm and not resolved to the complainant's reasonable satisfaction, he can ask the complaints bureau to consider it.

The complaints bureau will then consider and investigate the nature and merits of the complaint. Member firms are required to cooperate in this process and failure to do so may be a disciplinary offence. Upon conclusion of its investigation, the complaints bureau will determine whether to certify that the complaint does not warrant further action by TSA (in which case the complainant may initiate an arbitration), or to pass the complaint to the conciliation service to assist its settlement. In this case the complaints bureau may or may not suspect a breach of rules which would necessitate passing the complaint to the enforcement

staff responsible for disciplinary investigations.

#### **Conciliation procedure**

The conciliation service will seek to secure agreement between the complainant and the member firm as to whether, and on what terms, the complaint may be withdrawn or settled. The operation of the conciliation service is entirely informal, confidential and without prejudice. None of the evidence produced by either party during the conciliation process, nor any findings or recommendations by the conciliation service, will be made available either to the parties (so as not to prejudice any arbitration process) or to TSA's disciplinary staff. The Association recognises and accepts the need to divorce the function of conciliation from the function of discipline and arbitration.

#### **Complaints commissioner**

The operation of both the complaints bureau and conciliation service is monitored and, where appropriate, investigated by the complaints commissioner who is an eminent person entirely independent of TSA. The complaints commissioner can make observations and recommendations about the Association's procedures in any case which is referred to him. He may re-assess decisions and look at the facts, which may cause the bureau to reconsider its decision, and effectively undertakes the classic function of an ombudsman.

#### **Arbitration**

If TSA's conciliation service has been unsuccessful in effecting a settlement of a dispute, it may suggest that

arbitration appears to be appropriate. Arbitration can be used as an alternative to the courts. It must be noted, however, that there are certain laws governing the conduct of an arbitration proceeding which must be observed. Most important, perhaps, is the fact that an arbitrator's decision is final; that is, his or her decision is subject to review by a court only on a very limited basis. It should be understood, too, that in choosing arbitration as a means of resolving a dispute, an individual gives up the right to pursue the matter through the courts.

TSA operates two arbitration schemes which are available regardless of whether the dispute has been referred to the complaints bureau.

*Consumer arbitration scheme*

Any customer who is a private customer or expert investor having a claim against a member firm involving £ 25,000 or less may use these simplified procedure for the filing, handling and determination of such claims available under TSA's consumer scheme. In such cases, where the claimant chooses to use the scheme, the member firm is obliged by TSA's rules to agree to have the dispute resolved in this way.

The claimant must pay a registration fee of £ 10. TSA pays the costs of the arbitrator and all expenses incurred by the arbitration including the cost of any hearing or of any adviser or expert appointed to assist the arbitrator.

The claimant is responsible for all his or her directly incurred costs in relation to the arbitration, for example legal



fees should the claimant instruct a solicitor. Such costs cannot be recovered even if the claim is successful. Conversely, the claimant is not liable to reimburse any costs of the member firm even if the decision of the arbitrator is in favour of it. The only exception to this is where the arbitrator concludes that one party's case was frivolous and totally without merit and therefore either that the claim should never have been submitted to arbitration or that the claim should not have been contested; in such cases the arbitrator may award costs against the claimant or the respondent member firm. However, the maximum amount of costs that may be ordered against a private customer or expert investor is £500.

In order to initiate an arbitration under the TSA's consumer scheme, the claimant must submit a submission agreement and particulars of claim to the Association's tribunal secretariat. The former should give full written details of the dispute with the firm, indicating how the dispute arose and the sum of money being claimed. The claimant should also enclose copies of any papers which are relevant to the dispute and which he might want to bring to the arbitrator's attention.

By signing the submission agreement, the claimant agrees to submit the dispute to arbitration and to abide by the decision of the arbitrator. The claimant also agrees to be bound by the decision of the arbitrator with regard to any counter-claim which may be brought by the member firm against whom the claim is made.

In making a counter-claim against a private customer or expert investor, a member firm can only claim a sum that is not greater than the sum claimed by the private customer or expert investor himself.

In preparing a claim, the claimant is, of course, free to consult a solicitor at any time. However, where the arbitrator decides to call for a hearing, at which both parties are present, neither party may be legally represented at the hearing unless the arbitrator decides that the involvement of lawyers is fair to both parties and will assist the arbitrator.

Upon receipt of the submission agreement, the particulars of claim and the registration fee, the tribunal secretariat will send the claimant's documents to the member firm in question, which must add its signature to and return the submission agreement within three business days of receipt. The tribunal secretary will then appoint an arbitrator, and notify both the claimant and the firm of the appointment and identity of the arbitrator.

The firm then has twenty business days to provide an answer, unless an extension of time has been granted by the arbitrator. The firm may file a related counter-claim in addition to its answer and if it does so the claimant can file a reply to it within a further twenty business days. 'Related' means related to the customer's account with the firm. In support of its answer or counter-claim, the firm may attach copies of documents and supporting materials. It must also send copies of these documents to the claimant. The tribunal secretary will forward all pleadings

to the arbitrator.

If an arbitrator believes that the controversy is such that additional expertise is needed, he or she can direct that an expert is appointed to assist the arbitrator in his or her understanding of the case and the cost of doing that will be borne by TSA.

If any party to the controversy believes that the arbitrator cannot render a fair and impartial award, that party should promptly notify TSA. The arbitrator will be disqualified if there is a good reason for the objection.

All communication with the arbitrator must be made through the tribunal secretariat. At any stage the arbitrator can give whatever instructions and permission are necessary for the fair and rapid determination of the dispute. These could include calling for further documentary evidence to be filed.

Most arbitrations under the consumer scheme are likely to be handled on a documents-only basis, but if the arbitrator believes that the dispute cannot be resolved on the documents submitted, a hearing will be held. If this is to take place, TSA will select a location giving due consideration to the residence of the claimant as well as to all other relevant factors.

All hearings will be conducted by the arbitrator in the manner he or she determines will most expeditiously permit full presentation of the evidence and arguments of the parties. Usually, each party will be given an opportunity to make a brief opening statement setting out what he intends to prove. The claimant will then present evidence to the arbitrator including relevant documents

and witnesses (who will give their evidence on oath or affirmation) to establish and prove the claim to the arbitrator. The opposing party will have an opportunity to question the witnesses of the claimant and to object to any evidence which he presents. Next, the opposing party will present his or her case in the same manner as the claimant. Finally, closing statements will be made consisting of the final argument by the parties and commentary on the oral and written evidence introduced at the hearing.

When the arbitrator has reached a decision and has signed an award, a signed copy will be sent by the tribunal secretariat to each party. The arbitrator will set out the reasons for his award. The decision of the arbitrator is final.

#### *Full arbitration scheme*

This scheme may be used where a member firm and any of its customers agree that their dispute be resolved under it. The procedures followed are very similar to those of the consumer scheme and will not therefore be described in detail. The scheme contains provisions for full hearings in front of the arbitrator or panel of three arbitrators, at which either or both parties may be legally represented. The parties to a full arbitration will be responsible for all the expenses of the arbitration but the arbitrator will have the power to make an award for costs.

TSA will not seek to (and in any case could not) restrict any customer's right to take immediate proceedings in court instead of using its arbitration procedures. A customer who suffered loss due to a member's breach of its contract with him has a right of

action. Section 62 of the Financial Services Act confers an additional right of action for loss caused by breach of any of the TSA's conduct of business rules. The Association's arbitration schemes are open to the use of investors regardless of whether their dispute has been referred to the complaints bureau.



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STOCK EXCHANGE OF SINGAPORE : RULES

NON-MEMBER'S FAILURE TO MEET ENGAGEMENT

(1) In the event of a non-member being reported by a Member Company to have failed to meet an engagement with any Member Company, the Committee shall enquire into the case, and may call upon the Member Company against which the default is alleged to have been made to furnish in writing full particulars of any open transaction with such non-member, and to disclose any information of which it may have cognisance and supply any evidence in its possession bearing on the transaction in question. Where the Committee is satisfied that default has been made, the Committee may post such non-member as a defaulter, and declare to the Member Companies that he is in default.

(2) A Member Company shall not transact business for a non-member who has been declared to Member Companies to be a defaulter, unless such person shall have made a satisfactory arrangement with his creditor, who shall report such arrangement at the time to the Committee.

COMPLAINTS BY NON-MEMBERS

(1) If a non-member shall have any complaintt against a Member Company in respect of dealings in securities, he may refer the same in writing to the Committee, which shall, in the first place, consider whether the complaint is fitting for its adjudication, and in the event of the Committee deciding in the affirmative the

non-member shall, prior to the case being heard by the Committee, pay the sum of \$200/- (Two hundred dollars) to the President and sign a submission in writing in the form provided.

(2) The Committee shall thereupon investigate and adjudicate upon such complaint, and the Member Company against which any complaint is made shall be bound to submit to the jurisdiction of the Committee, whose decision shall be final and binding against it and against a non-member so complaining.

(3) The Committee may refund to the non-member the said sum of \$200/- (Two hundred dollars) or any part thereof, but any such refund shall be entirely in the Committee's discretion.

#### DISPUTES BETWEEN MEMBER COMPANIES

(1) In disputes between Member Companies with reference to stock and share transactions brought to the consideration of the Committee, the Committee's decision shall be final and binding, and shall be carried out forthwith by the Member Companies concerned.

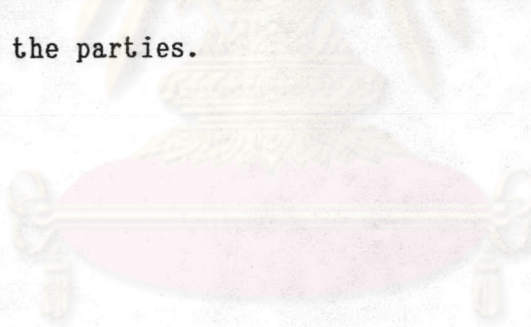
(2) In the case of disputes between Member Companies with regard to contracts transacted such disputes shall be brought immediately to the notice of the Committee immediately upon receipt of contract notes from each other. Where there is a failure to report within a reasonable time, the Committee has the right to decide whether or not to adjudicate on the matter. The decision of the Committee shall be final and binding on all parties.

(3) The Committee may refuse to adjudicate upon any claim made by a purchasing Member Company in respect of any transfer that has not been lodged for registration within one month from the date

of delivery to such Member Company.

(4) Member Companies shall accept the Committee as the sole and final tribunal and arbiter in any dispute that may arise between them in transactions under these Rules, and shall not appeal to any court of law or equity except in disputes upon which the Committee refuses to adjudicate.

(5) Any dispute arising from a breach of the Rules or the Bye-Laws shall be referred in the first instance to the President or an officer of the Exchange who may give a decision or refer the matter to the Committee. A Member Company shall have the right to request the President or such officer to place the matter in dispute before the Committee. The decision of the Committee shall be final and binding on the parties.



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ประวัติผู้เขียน

นางสาว เนตรทราย สงวนศักดิ์ภักดิ์ เกิดวันที่ 20 มกราคม พ.ศ.2512  
สำเร็จการศึกษาปริญญาตรีนิติศาสตร์บัณฑิต คณะนิติศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย ในปี  
การศึกษา 2533 และเข้าศึกษาต่อในหลักสูตรนิติศาสตร์มหาบัณฑิตที่จุฬาลงกรณ์มหาวิทยาลัย  
เมื่อ พ.ศ.2535 ปัจจุบันทำงานฝ่ายกฎหมาย ตลาดหลักทรัพย์แห่งประเทศไทย



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