

POLYREG GENERAL SELF-REGULATORY ORGANISATION

REGULATIONS GOVERNING THE SUPERVISION
OF THE CODE OF PROFESSIONAL CONDUCT AND ITS SANCTIONS

A. General Provisions

§1 Purpose

¹ These Regulations contain the conditions under which Asset Managers subject themselves to the Code of Professional Conduct, the supervision of their compliance with the Code and the sanctions applicable in case of a breach of the Code is discovered.

² For the purpose of these Regulations the Code of Professional Conduct is the Code of Professional Conduct issued by the SRO Polyreg pursuant to article 6, para. 2 of the KKV and approved by the Swiss Financial Market Supervisory Authority FINMA.

³ The term „Regulations“ without any further qualification shall hereinafter refer to Regulations Governing the Supervision of the Code of Professional Conduct and its Sanctions.

§2 Subordination

¹ Asset Managers who are actively engaged in business and provide asset management services as financial intermediaries as defined by the Money Laundering Act (MLA) can subject themselves to the requirements of the Code of Professional Conduct, provided they are members of the SRO Polyreg, their registered office is in Switzerland or if they have a subsidiary or business premises in Switzerland and if the main focus of their actual business activity and management is in Switzerland.

² Every Asset Manager who is subject to the Code of Professional Conduct is also explicitly subject to the rules of these Regulations and to the sanctions contained therein and is accountable to the court of arbitration of SRO Polyreg.

³ Subordination shall require a written declaration by the Asset Manager and the approval of Polyreg's Executive Committee.

§3 Supervision

¹ Asset Managers who have subjected themselves to the Code of Professional Conduct shall constitute a Section pursuant to §13 of the Statutes.

² Supervision of compliance with the Code of Professional Conduct shall be conducted separately from and independent of MLA supervision.

§4 Standards Required of Asset Managers

¹ Asset Managers can only subject themselves to the Code of Professional Conduct if they fulfil the following requirements:

- a) the Asset Manager himself, all persons who are entrusted with management and administration and all employees who perform asset management functions for the Asset Manager have good professional reputations and can be relied on to comply with the Code of Professional Conduct.
- b) the Asset Manager complies with the Code of Professional Conduct, takes it into consideration when setting up his internal organisation, his Asset Management Contracts and his client relations and undertakes to conduct his business at all times in accordance with the Code of Professional Conduct.
- c) in his capacity as a financial intermediary, the Asset Manager is under the supervision of SRO Polyreg.
- d) the Asset Manager adheres to the current laws in the financial market and is in possession of all licenses required for his business activity.

² The requirements listed under section a) above apply analogously to independent investigators and inspection authorities. These must also possess the necessary expertise and be independent of the management and administration of the Asset Manager under supervision.

§5 Declaration of Subordination

¹ The Declaration of Subordination shall be addressed to the Executive Director who, having confirmed that it fulfils all requirements and, where necessary, completed the documentation, shall forward it to the Executive Committee. The Executive Director can make a recommendation for approval or rejection.

² The Declaration of Subordination shall make reference to the Code of Professional Conduct and to these Regulations and shall contain a written declaration of unreserved compliance with these provisions.

³ The Declaration shall be accompanied by documentation providing details of the applicant's organisation and business activities and adequate proof of his qualifications. The following basic information must be provided and further details may be required in addition:

- a) the applicant's first name and surname and the name of the company; a copy of the applying company's Statutes is to be enclosed where available;
- b) current extract from the Companies Register (if the company requires registration);
- c) precise details of addresses of business premises in Switzerland and the relative telephone numbers and e-mail addresses;
- d) details of the objective of the business, its business activities and the location at which asset management activities are actually carried out;
- e) names of the proprietor of the business and/or the persons authorised to do business for the applicant and of the members of the board of management and signatories, insofar as these are not evident from the entry in the Companies Register;
- f) details of affiliation to professional associations;
- g) a diligent and truthful declaration that neither the asset manager nor his institution is currently or has been the subject of criminal, economic or supervisory legal proceedings which were either pending or concluded during the past five years; or, if they have been the subject of such proceedings, precise details thereof;
- h) designation of the inspection authority selected by the applicant, together with a declaration by the chosen authority of its acceptance of the mandate and its independence including documentation of its qualifications.

⁴ The Executive Committee may create its own mandatory form for the Declaration of Subordination.

§6 Approval and Appeal

¹ Having determined whether all regulatory requirements have been fulfilled, the Executive Committee decides on the approval or rejection of the Declaration of Subordination.

² No applicant is automatically entitled to approval of his Declaration of Subordination to the Code of Professional Conduct. Any appeals shall be subject to the provisions of the Statutes.

§7 Membership Lists and the Right to Information

¹ The Organisation shall maintain and publish a list of all asset managers who have subjected themselves to the Code of Professional Conduct. The list can be made accessible on the Internet.

² With the written consent of the Asset Manager, the Organisation shall provide disciplinary information to third parties for a fee. The fee is to be procured by the Asset Manager.

³ Disciplinary information shall consist of information as to whether or not sanctions concerning compliance with the Code of Professional Conduct had been imposed on the Asset Manager during a period of maximum three years prior to the date of enquiry, or whether proceedings in connection with sanctions are pending.

§8 Duty of Reporting to the Organisation

¹ Asset Managers are obliged to provide unreserved information relating to all facts which concern the implementation of the Code of Professional Conduct.

² Asset Managers shall allow their appointed inspection authority unrestricted access to their files and provide it will all information necessary for the examination of their compliance with the Code of Professional Conduct.

³ The Asset Manager shall inform the Organisation without delay, without prompting and in writing of any changes in staff, in the organisation or in the shareholding situation; he shall further provide details of changes in any of the information contained in the Declaration of Subordination.

⁴ Furthermore, the Asset Manager shall inform the Executive Director without prompting about:

- a) the initiation or settlement of any debt enforcement proceedings against the Asset Manager;
- b) the initiation or settlement of any civil proceedings against the Asset Manager in connection with the handling of asset management contracts;
- c) the initiation or settlement of any criminal or administrative proceedings against the Asset Manager or his staff in connection with their professional activities.

⁵ The Organisation can prescribe reporting by means of a standard form and request additional information and documentation.

B. Inspection Procedures

§9 Appointment of the Inspection Authority

¹ Each Asset Manager shall appoint a formal and materially independent inspection authority to conduct periodical inspections of compliance with the Code of Professional Conduct and shall notify the selected authority accordingly. The inspection authority shall confirm to the Organisation in writing its independence, competence and acceptance of the mandate.

² With the acceptance of this mandate, the inspection authority is subject to the same duties of information and cooperation towards the Organisation as the Asset Manager under inspection. Inspection by the selected authority is at the instruction and cost of the Asset Manager for the attention of the Organisation.

³ Provided the other conditions are met, the inspection authority may be identical with the auditing body of the limited company or the Asset Manager's MLA supervisor.

⁴ The inspection authority shall consist of persons or companies which:

- ◇ enjoy a good reputation;
- ◇ possess the expertise necessary for the auditing of the business activities concerned;
- ◇ can guarantee efficient inspection;
- ◇ are independent of the Asset Managers under inspection. Inspection agencies are not permitted to inspect each other.

⁵ Once an inspection authority has been appointed, the member may only replace it if there are significant reasons.

⁶ If an inspection authority appointed by the Asset Manager resigns its mandate or is rejected by the Organisation, the Asset Manager is required to appoint a new inspection authority within no longer than two months.

§10 **Ordinary Periodic Inspection**

¹ Asset Managers who become subject to the terms of the Code of Professional Conduct during the first half of a calendar year shall submit annual inspections reports by no later than 31st December of each year. All other Asset Managers must submit inspection reports by the latest 30th June of each year.

² The Asset Manager shall instruct his inspection authority without prompting to conduct an inspection in time for the inspection report to be submitted to the Organisation before the required due date (date of postmark).

³ The inspection period comprises the time between the Asset Manager's Declaration of Subordination and the inspection, or the time between the last inspection and the current one.

⁴ The Executive Director can grant the Asset Manager an extension of up to a maximum of two months for the submission of his inspection report if there are sufficient grounds. However, this shall not affect the due date for future inspections.

§11 **Inspection Procedure**

¹ The inspection shall take place on the Asset Manager's business premises and be conducted on the basis of established and accepted principles of audit.

² The Asset Manager under inspection shall place at the inspection authority's disposal all records and documentation which can be used to assess his compliance with the Code of Professional Conduct. The inspection authority may also ask to inspect the Asset Manager's accounting, the client files and records of the company or client accounts. In addition, the inspection authority shall be given all pertinent information.

³ The inspection authority is obliged to respect the business or professional confidentiality of the Asset Manager.

§12 Substance of the Inspection

¹ The inspection authority shall verify compliance with the rules of the Code of Professional Conduct. The aim of the inspection is to determine the probability of the Asset Manager adhering to the Code of Professional Conduct. Any breaches thereof shall be recorded in the inspection report.

² The inspection shall be made on the basis of random samples which are scheduled by the inspection authority in such a way as to enable it in all probability to determine systematic breaches of the Code. The inspection shall in particular verify whether the Asset Manager:

- a) concludes Asset Management Contracts in conformity with the regulations;
- b) is accountable to his clients in the manner set out in the contract and informs them of services from third parties and possible conflicts of interest;
- c) has taken appropriate measures to avoid conflicts of interest;
- d) has informed the Organisation of any changes without delay.

³ The inspection shall also verify whether, in all likelihood, the Asset Manager:

- e) can vouch for irreproachable business practice, has an organisation suited to his business activities and conducts his business in compliance with the laws applicable to the financial market;
- f) adheres to the defined investment strategy, places investments and conducts transactions in the interest of his clients and ensures an appropriate diversity of risk within the scope of the investment strategy. In this respect, the assessment of whether organisational measures are planned and put into practice or not is of particular significance.

⁴ The inspection authority shall forward to the Executive Director of the Organisation a signed copy of its report within 14 days of the completion of the inspection, but by the latest on the due date.

§13 Consequences of Complaints

¹ Complaints lodged by the inspection authority or reported by a third party shall be clarified and followed up to the extent that a decision can be reached on whether to initiate sanction proceedings or to take no further action.

² Complaints will be reported to the Asset Manager's MLA supervisor, insofar as this authority is not identical with the inspection authority.

§14 Extraordinary Inspection

¹ Where there are indications of a breach of the Code of Professional Conduct, the Executive Director may employ an independent investigator to deal with this or for the preparation of sanctions proceedings, or he may conduct the enquiry himself.

² The independent investigator documents evidence and produces a written report on his findings. He can combine his report with a proposal for sanctions.

³ The Asset Manager concerned must support the independent investigator and provide him with all necessary information and allow him access to pertinent data.

⁴ The costs of the extraordinary investigation shall be determined by the Executive Committee. As a rule they are borne by the Asset Manager. They shall be procured by the Executive Director.

C. Sanctions

§15 Sanctions

¹ Breaches of the Code of Professional Conduct shall result in sanctions. Sanctions shall be imposed analogously with 45 of the Statutes. In particular, the following steps can be taken:

- a) warning;
- b) fines between 300 and 300,000 Swiss Francs;
- c) threat of exclusion;
- d) exclusion from Subordination to the Code of Professional Conduct;
- e) exclusion from the Organisation.

² Where necessary, sanctions are to be combined with instructions to restore order in compliance with the regulations within a prescribed time frame. The instruction can be combined with Directives and regulatory requirements.

§16 Warranty for Compliant Business Conduct

¹ If, during proceedings concerning compliance with the Code of Professional Conduct, the compliant business conduct of an Asset Manager becomes questionable, the issue of warranty under Art. 14 of the MLA is also to be examined.

² If necessary, additional sanctions proceedings with respect to the MLA regulations shall be initiated.

§17 Fines

¹ Fines shall be allocated on the basis of the gravity of the breach, the degree of culpability and the economic viability of the Asset Manager. Parallel governmental measures and/or penalties shall not discount the imposition of internal sanctions by the Organisation. However, they shall be considered as mitigating if the combination of penalties would be unreasonably harsh.

² In the case of first-time breaches or breaches through negligence a warning can be given instead of a fine or sanctions can be dispensed with.

§18 Exclusion from Subordination to the Code of Professional Conduct

¹ For the purpose of these Regulations, exclusion shall mean the revocation of the Approval of Subordination to the Code of Professional Conduct.

² Exclusion can be ordered where there are repeated or grave breaches of the provisions of the Code of Professional Conduct.

³ An Asset Manager shall be excluded if he no longer fulfils the conditions for Subordination to the Code of Professional Conduct, in particular if he personally or his organisation are no longer able to vouch for irreproachable business practice.

⁴ An Asset Manager must be excluded in case of a grave breach of the provisions of the Code of Professional Conduct, if order is not restored within the prescribed time frame or if there was a significant breach of client interests.

⁵ If a breach which could result in exclusion is the fault of an individual person and if there are no other organisational deficiencies which might cast doubt upon the orderly business practice of the Asset Manager, exclusion can be avoided if the person at fault leaves the Asset Manager's organisation.

⁶ The threat of exclusion or exclusion itself may involve a fine.

§19 Sanctions Procedures

¹ The Asset Manager shall be informed in writing of the initiation of sanctions proceedings; the complaints and any further grounds for suspicion shall be specified. At the same time, a time frame shall be given within which the Asset Manager has the right to respond in writing.

² In his statement the Asset Manager shall give his point of view on the accusations or grounds for suspicion in detail and comprehensively, and present and document the actual circumstances.

³ On the basis of this response the Executive Committee shall decide whether to impose sanctions or dismiss the charges. If the charges are dismissed, the Asset Manager may be charged with costs if his own conduct either caused or complicated the process.

§20 Internal Legal Action

Pursuant to §35 of the Statutes, decisions concerning sanctions are subject to appeal at a court of arbitration. The appeal must be filed in writing within 10 days of receipt of the decision to initiate sanctions proceedings. The arbitration officer shall determine a separate time frame for filing the grounds for appeal.

D. Various Provisions

§21 Coverage of Costs

¹ The Organisation shall charge those Asset Managers who have subjected themselves to the Code of Professional Conduct a fee of CHF 800.00 per calendar year for coverage of the costs of supervising them in accordance with these Regulations.

² The Executive Committee can change the fee where necessary.

³ Fees are not charged pro rata temporis.

⁴ In the case of sanctions being imposed, costs of taking records and ruling will be charged in accordance with the ordinance issued by the Cantonal Supreme Court of Zurich on legal fees (211.11)

§22 Termination

¹ Asset Managers can terminate their subordination to the Code of Professional Conduct by means of written notice to the Executive Director. Asset Managers who have handed in their notice are liable for the annual subscription for the current year. This applies similarly to any existing claims of the Organisation to fees or fines and also to subsequent fines resulting from any investigation in process at the time that notice is given.

² If termination occurs as a consequence of an investigation, whether as result of the initiation of a sanctions process or of the appointment of an independent investigator, the investigation shall be taken to its conclusion and termination shall only become effective after completion of the investigation and the relative sanctions process.

³ From the point of his giving notice the Asset Manager is no longer entitled to the privileges associated with the acceptance of the Code of Professional Conduct.

§23 Liability

¹ If a third party claims compensation from the Organisation on the basis of an allegation of insufficient supervision of an Asset Manager's compliance with the Code of Professional Conduct, the Asset Manager shall discharge the Organisation of its liability for such claims and he together with his governing bodies shall be jointly liable to the Organisation for the costs of legal counsel and proceedings and any other costs awarded to the third party in such proceedings. The amount for legal action and the costs of legal counsel and proceedings shall be procured at the request of the Organisation.