

PRACTICE NOTE
ON RULE 42
(FUND HOLDING TERMS AND CHARGES)

PN 01 / 2017
24 August 2017

GENERAL

1. Parties agree they shall be bound by the terms of this practice note, which governs the use of SCMA fund holding service under Rule 42 of SCMA Arbitration Rules.
2. Any inconsistency between this practice note and SCMA Arbitration Rules shall be resolved in favour of SCMA Arbitration Rules.
3. In this practice note, and in relation to Rule 42,

“a year” means a period of 365 days commencing on the date of receipt of the funds by SCMA;

“Fund” means any fund received and held by SCMA pursuant to an order or direction from the tribunal;

“Party” means a party to an arbitration reference, whether commenced under SCMA Arbitration Rules or otherwise;

where appropriate, references to the singular includes the plural and vice versa;
and

all definitions in SCMA Arbitration Rules for the time being in force are hereby incorporated in this practice note.

THE FUND

4. Funds received and held under Rule 42 shall be held in trust by SCMA under Singapore law as bare trustee.
5. The Fund will be held in an ordinary savings account at a reputable licensed Singapore deposit-taking institution.
6. Where the tribunal orders or directs a Party to pay funds into SCMA, such order or direction shall be deemed an instruction to SCMA to engage its fund holding service under Rule 42 of SCMA Arbitration Rules.

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7. SCMA shall disburse a Fund only in accordance with the terms of an Award, upon the written order or direction of the tribunal, or in accordance with this practice note.
8. In the event the tribunal was not properly constituted, or if a Final Award has been rendered without instruction on the disposal of the Fund, the Registrar shall request clarification from the tribunal and/or parties on the disposal of the Fund. In any event, unless a written objection is received from the tribunal, SCMA shall disburse the Fund:
 - i. to order upon the agreement of all Parties; or
 - ii. if a response has not been received from one or more Parties within 30 calendar days of the Registrar's request, to the payors in the respective amounts received from such payor after deducting all applicable fees and disbursements pro-rated between all payors in equal portions;

STATEMENT OF ACCOUNT

9. SCMA shall provide Parties, with the tribunal in copy, with an official receipt upon the receipt of an amount into the fund.
10. SCMA shall issue a statement of account to the parties, with the tribunal in copy, on the following events:
 - i. Fund has been fully collected (100%);
 - ii. Fund Holding fee or transaction fee is charged from the Fund;
 - iii. A transaction is made on the Fund;
 - iv. Fund has been fully depleted (0%).
11. SCMA shall issue a statement of account upon the request of the tribunal or a Party within five working days of such request.

DEDUCTIONS FROM FUND

12. SCMA may without notice deduct from the Fund any of the fund holding fee, transaction fee, or disbursements incurred by SCMA in respect of such arbitration or fund holding service, unless otherwise instructed by the tribunal or Parties prior to such deduction.
13. An invoice for any such fees or disbursements incurred shall be made out to each payor with the tribunal in copy within 7 calendar days of such fee being incurred, except where the request to utilise the fund holding service originates from a payor, then such invoice shall be made out to that payor or such other person as that payor may specify.

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14. SCMA shall apportion any fees or disbursements in equal proportions between each payor unless otherwise instructed by the tribunal.

LIABILITY

15. SCMA shall not be liable with respect to the Fund when acting in accordance with the Arbitration Rules or this practice note.
16. The Parties shall act in accordance with all applicable anti-money laundering and suppression of terrorism financing legislation in Singapore or elsewhere, and shall undertake that no money laundering or other unlawful act is committed in connection with the use of the fund holding service.
17. The Parties or their representatives shall promptly advise SCMA of any sanction, restriction, or embargo that may affect any Party, whether directly or indirectly (including financial sanctions, by which any fund or other economic resources belonging to, held by, or controlled by such Party, or an associated entity or body, have been frozen, or which provide that no fund or economic resources shall be made available to such Party). The Parties or their representatives shall upon request make available all source documents, data or information required for SCMA to verify information required to be verified as part of any anti-money laundering, suppression of terrorism financing or other legislation or law.
18. Notwithstanding anything in the Arbitration Rules or this practice note, the Registrar may in his sole and absolute discretion terminate the fund holding service. The Fund shall be returned to the payors in the respective amounts received from such payor after deducting all applicable fees and disbursements pro-rated between all payors in equal portions.
19. Any dispute arising from or out of this practice note or the fund holding service shall be subject to the exclusive jurisdiction of the Singapore courts. This practice note is governed by Singapore law.
20. The Parties agree that they shall release and discharge, indemnify and hold harmless SCMA and the Registrar from and against any claims, liabilities, demands, actions and costs of whatsoever nature and howsoever and whenever arising, whether in Singapore or any other jurisdiction, arising from or out of any proceedings in relation to this practice note or the fund holding service.



21. This Practice Note applies to all funds received on or after 24 August 2017.

Issued by:
Registrar, SCMA

published on 24 August 2017

Signed for and on behalf of

Signed for and on behalf of

[signature]

[signature]

Claimant:

Respondent:

Name of Authorised Signatory:

Name of Authorised Signatory:

Company / Firm:

Company / Firm:

Designation:

Designation:

Date: _____

Date: _____

[please insert additional signing clause(s) as necessary]

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| Initial: |
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