



S F E B U L L E T I N

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CHANGES TO SFE'S CONCILIATION AND ARBITRATION SERVICES

In response to legislative changes, SFE will be phasing out the availability of its arbitration service for settlement of disputes between Participants and their clients. The associated conciliation service will continue to be available. However, where conciliation is unsuccessful, rather than move on to arbitration, as at present, the parties will need to use the services of an external dispute resolution scheme which has been approved by the Australian Securities and Investments Commission (ASIC) and to which the Participant belongs.

All organisations with retail clients that need to obtain an Australian Financial Services Licence from the Australian Securities and Investments Commission before 11 March 2004 have an obligation to belong to an approved external dispute resolution scheme as a pre-condition to obtaining a licence. (See Corporations Act 2001 (Cth) s.912A).

In response to indications from Participants that they would prefer to have any SFE related disputes settled through SFE's industry-specific arbitration service rather than join a generic financial services dispute resolution scheme, SFE sought ASIC's approval of the SFE arbitration system as an external dispute resolution scheme for these licensing purposes. SFE sought approval of the existing arrangements, i.e. under a model which, contrary to ASIC's policy, did not involve direct consumer participation or representation in the management of the dispute resolution service. ASIC has indicated that it would not be prepared to depart from this element of its policy (PS 139).

As a result, the following new arrangements will apply: after a Participant has joined an approved dispute resolution scheme (the Financial Industry Complaints Service – see www.fics.asn.au – being the most obvious possibility), SFE would continue to make its conciliation service available, but not its arbitration service. Making the arbitration service available would be counterproductive as an unsuccessful party could not be precluded from subsequently pursuing the matter through FICS or other approved dispute resolution scheme to which the Participant belonged.

In order to encourage dissatisfied retail clients to pursue conciliation from an SFE appointed conciliator with futures expertise, before approaching a more broad-based complaints service with direct consumer participation or representation, the costs of using the SFE's service will be borne by Participants rather than their customers with the costs of the Exchange's legal staff involved in administering the service being charged to Participants at the rate of \$200 per hour exclusive of GST.

S F E B U L L E T I N C O N T I N U E D

Until a Participant with retail clients has obtained its Australian Financial Services licence, SFE's arbitration service will continue to be available in relation to disputes that were not able to be settled at the conciliation stage. For arbitrations commenced after 1 August 2003, Participants will be responsible for the cost of the Exchange legal staff in administering the service at the same rate of \$200 per hour exclusive of GST.

Should you have any queries please contact Catherine Sullivan on 9256-0505 or csullivan@sfe.com.au



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