

[For Publication on 8<sup>th</sup> April, 2021]

The Financial Dispute Resolution Centre (FDRC) issued Guideline No. 6 pursuant to Paragraph 3.2 of Section A in the Terms of Reference (ToR). The Guideline is published by the FDRC on its web site as of today and shall take immediate effect in accordance with Paragraph 3.2 of Section A in the ToR.

**Guideline No. 6: Protocol for online mediation meeting on FDRC cases** (w.e.f. 8<sup>th</sup> April, 2021)

The Financial Dispute Resolution Centre (FDRC) will adopt the following protocol in holding online mediation meeting on FDRC cases under the COVID-19 pandemic situation, or other situations where face-to-face meeting may not be feasible or preferable.

# **Financial Dispute Resolution Centre (FDRC)**

## **Protocol for online mediation meeting on FDRC cases**

### **A. Objective**

1. The FDRC provides mediation and arbitration services to financial institutions and their customers to resolve monetary disputes in accordance with the *Terms of Reference for FDRC in relation to the Financial Dispute Resolution Scheme (ToR)* (as amended from time to time). The objective of this Protocol is to provide guidance for holding online mediation meeting on FDRC cases under the COVID-19 pandemic situation, or other situations where face-to-face meeting may not be feasible or preferable.

### **B. General Arrangement for Online Mediation Meeting**

2. The Parties of the mediation case are required to make physical presence at the FDRC or at FDRC designated venue.
3. In general, three rooms are arranged for the mediation meetings (1 large room and 2 small rooms) on the mediation day. More rooms will be arranged if specific request(s) is received from either party in advance.
4. Mediator and the Parties will be arranged to sit in different meeting rooms. The FDRC will provide at each meeting room device for online communication amongst all parties involved in the mediation.
5. The Mediator is in charge of the online meeting and control the flow of communication amongst the parties concerned.

### **C. Ensuring Confidentiality**

6. Confidentiality is of paramount importance in mediation. The Mediation Ordinance (Cap. 620) provides that every person involved in mediation is bound by the confidentiality provisions of the Ordinance and shall not disclose mediation communications to persons who are not a party to the mediation, unless consent is obtained from the mediator and the Parties and the persons making the mediation communications. Exemptions to the confidentiality provisions should be explained to all the Parties involved by the Mediator, especially regarding physical harm and threats in the course of mediation. For the purpose of this provision, person also includes 'corporate persons'.

7. Mediation communication means—
  - (a) anything said or done;
  - (b) any document prepared; or
  - (c) any information provided,for the purpose of or in the course of mediation, but does not include an agreement to mediate or a mediated settlement agreement.  
(Section 2, Interpretation of the Mediation Ordinance.)
8. All the participants, including any person who is not a party to the mediation, in the mediation meeting(s) are required to sign on the *Agreement to Mediate* or *Confidentiality Agreement* and are bound by the Confidentiality clauses in the *Agreement to Mediate* or *Confidentiality Agreement* (For details of the Confidentiality clauses, please refer to **Annexes** of the ToR).
9. No Recording:
  - (a) No recording, either audio or visual, is allowed.
  - (b) All participants are required to deposit and lock electronic devices with recording functions in lockers prior to the mediation meeting.
  - (c) All participants must not take any verbatim recording or notes of the mediation. During the mediation process, participants shall not be allowed in any way or form to record the mediation content by audio or video recording.
  - (d) Mediator is the host of the online mediation. The recording function on the device for online communication is disabled by the host and the host will not give permission to the Parties or other participants to record.
10. Other measures to ensure the confidentiality of online mediation cases:
  - (a) The Parties concerned should provide a full list of attendees before the meeting. The FDRC will not admit any person who is not on the attendees list to the venue on the meeting day.
  - (b) The FDRC should ensure that the *Agreement to Mediate* and/or *Confidentiality Agreement* have been signed by the Parties and, if any, the other participants.
  - (c) The FDRC should arrange a staff to station at the reception area outside the meeting rooms where the mediation meeting is being conducted.
  - (d) Chatroom link is only activated on the device for online communication provided by FDRC on the day of the mediation meeting.

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