



SIDREC to Capital Market Investors: We've Got Your Back!

With SIDREC, smaller investors have an avenue to resolve any disputes arising from capital market investments in Malaysia.

As Malaysia aims to be a developed country by 2050, providing access to redress for capital market disputes becomes imperative, in tandem with internationally accepted standards of developed jurisdictions.

The need to ensure investors, and specifically the smaller retail investors, had affordable and expert redress avenue is what prompted the SC to set up the Securities Industry Dispute Resolution Center, or SIDREC as it is more popularly known, in December 2010.

Smart Investor recently had a chat with SIDREC's Chief Executive Officer, Sujatha Sekhar Naik to understand how SIDREC works to ensure that the interest of all parties involved in the dispute resolution process is duly addressed.

Smart Investor (SI): Kindly enlighten us about the roles and responsibilities of SIDREC in detail. What actually transpired for SC to set up an independent dispute resolution body?

Sujatha Naik (SN): The primary reason behind the set-up of SIDREC is to provide investors, specifically the smaller investors an avenue to resolve disputes involving monetary loss arising from capital market investments or transactions with a licensed or registered capital market intermediary.

Of course, there are other redress avenues such as the courts and arbitration; however, many smaller retail investors cannot afford to pursue their claims as it can be a costly and timely affair.

Investors may also not understand the complexities and legal hurdles that may arise. These obstacles may cause investors to lose heart.

With SIDREC, smaller investors will always have someone to turn to. They can afford the service, because it's free!

I should add that for issues involving pure banking and insurance claims, our peer organisation, the Ombudsman for Financial Services (OFS), is there to offer similar help, under the purview of Bank Negara Malaysia.

Between SIDREC and OFS, we seek to ensure the public have access to an affordable and independent avenue for redress for disputes across the financial markets.

SI: What are the types of cases that usually come to SIDREC, and which ones are accepted or dismissed?

SN: SIDREC can only accept eligible claims, i.e. against a capital market intermediary who is a SIDREC member, involving a capital market product or service and within the claim limit.

It should also not be an excluded dispute as set out in our rules (e.g. the matter is in court or subject to a decision of the court, or has exceeded the time limit under the Limitation Act etc).

SIDREC comes in when things go wrong in an investment or transaction with a licensed or registered capital market intermediary, and the investor believes any financial loss they suffered is due to the intermediary's act or omission.

It does not have to be a breach of the law or misconduct. It may have been caused by an error or



With SIDREC, smaller investors will always have somewhere to go to when a dispute arises, and they can absolutely afford the service because it's free!"

misunderstanding on the part of the intermediary or a systems glitch. It may also have been caused by a misrepresentation or mis-selling or inadequate disclosure or fraud.

If the claimant cannot resolve the matter with the intermediary, we will try to help, first through mediation and if that fails, then we will adjudicate the matter and make a decision.

The public must understand that SIDREC is not here to help them get out of bad investment decisions that they themselves make.

If their losses are due to the normal highs and lows of the

market, that relates to market performance and is part of the market risk of an investment. If the investor appears to have colluded with certain parties and are party to misconduct or fraud related to their portfolio, we will dismiss the case. So, investors need to come to us with clean hands.

If the investor has contributed to the loss through his conduct, SIDREC will still accept the case, but such contributory conduct (e.g. negligence) will be taken into account and may impact on the finding and reduce partially or even negate any compensation they may receive.

Capital market products/services under SIDREC's purview

- securities (e.g. shares, warrants, bonds, structured products such as structured warrants etc.)
- derivatives (e.g. futures or options)
- unit trust
- PRS

Who are SIDREC Members?

SIDREC Members comprise companies, which are registered persons, or are licensed by the SC to deal in securities, derivatives, PRS, and/or undertake fund management.

These include banks, stockbroking companies, futures broking companies, unit trust management companies, fund management companies, PRS providers and distributors, and financial planners who are corporate unit trust/PRS advisers.

What is mediation?

Mediation is an effective way of resolving disputes without the need to go to court. It involves a mediator who is an independent third party.

The mediator's role is to help the parties communicate and reach an agreement and outcome that is acceptable to both parties.

Mediation meetings are very practical and common sense in approach. The mediation process is confidential and the discussions will not be disclosed to any party outside of SIDREC's dispute resolution process.

Why resolve claims at mediation stage?

- Members and claimants retain control and decide the outcome
- Disputes are resolved, goodwill and business relationship maintained
- Time and cost efficient
- Affordable independent and impartial expert help in resolving disputes

SI: We understand the service is free for smaller investors. Can you please elaborate?

SN: Yes, the service is free for claims of RM250,000 and below. As our primary purpose is to ensure the smaller retail investor has access to redress, we do not charge them a fee.

Imagine receiving expert help - from a case manager who stays with the claimant and the member until the dispute is resolved, to a mediator who is a qualified alternative dispute resolution (ADR) specialist with capital market experience, mediating the whole process - absolutely free.



Make use of our services. We help both parties communicate more constructively to reach a mutually acceptable settlement that speaks to the interests of both parties and not just their rights. If that does not work, we will adjudicate the matter and make a decision, which is binding on the intermediary if the claimant accepts it.

SI: Is there a claim limit?

SN: We have two components – the mandatory and the voluntary. The former entails claims of RM250,000 and below, while the latter involves higher amounts.

Under the mandatory component,

SIDREC may give awards up to RM250,000. For such claims, SIDREC's members must participate in the process and if the matter is not settled at mediation and proceeds to adjudication, members must comply with any decision that SIDREC issues (if accepted by the claimant). Our service is free to the investor under the mandatory component.

However, if the investor's claim exceeds RM250,000 and they still wish to use the mandatory component of our service, they may do so if they limit their claim to RM250,000, even if their initial claim was higher. Any settlement following mediation or adjudication would be a full and final settlement of the claim.

We recognise investors with higher claims (above RM250,000) may also benefit from our help. We provide a voluntary component to our service, whereby if both parties wish to use our service, we will provide our mediation and adjudication services.

However, as these claims are clearly not by the smaller retail investor, the service while still affordable is not free to the investor. Both parties have to pay a fee.

Foreigners or those residing outside Malaysia can come to SIDREC for help

SIDREC accepts claims from any person regardless of your nationality or where you live, so long as your complaint or claim is in relation to a capital market product or service provided to you by a SIDREC Member.

SI: It is mentioned that SIDREC's dispute resolution process is an informal one. What happens from the time an investor lodges a complaint until the issue is solved?

SN: The process begins once a claim form comes to us in the form of a letter, phone call, online enquiry, or walk in. We will then start engaging the parties with the view to resolve.

Claimants should come to us with the relevant information and complete a claim form. However, for those who have a handicap or other challenges, we will help where we can.

Some claimants come to us not knowing anything; all they know is they have a problem that made them lose money and it's not their fault. So, we assist them in structuring their thoughts and bringing the information together.

A case manager is assigned to undertake the initial assessment and to investigate the claim. He will engage with the member and claimant during the case management stage.

The case manager stays with the case through the process, and will be the point of communication and support for the parties. We will assess the eligibility and merit of the claim and verify the information provided. Once the assessment is done, a date is set for mediation.

Confidentiality is crucial. Both claimant and member will speak freely only if they are confident it is safe to do so, and both genuinely want to resolve the matter. This is more so during mediation.

The mediator will facilitate a constructive conversation and ensure a fair process.

At mediation, both parties have control over the outcome, the member, as to what they wish to offer,

and the claimant and what he is willing to accept. This is a perfect opportunity for parties, with the help of an independent expert, to conclude the matter on terms that are mutually acceptable and in some cases, still maintain a relationship with the other party.

If both parties agree to a settlement, it will be a full and final settlement of the claim. Otherwise, they go to the next step which is adjudication.

During adjudication, SIDREC's adjudicator will conduct a hearing of the matter. Both parties will be able to submit their case and provide extra information, including bringing in witnesses. They may ask questions and seek clarification from the other party. The adjudicator too may put questions to both parties.

At the end of the hearing, the adjudicator will consider the matter and issue a decision. Parties will be informed, and if the claimant accepts the decision, the member must comply to the terms of the award that are granted by the adjudicator. This would be a full and final settlement of the claim.

SI: How receptive is the public at large to SIDREC since its establishment in 2011?

SN: If you refer to our Annual Report 2016, SIDREC received 345 claims and enquiries comprising 69 eligible claims, 217 enquiries and 59 ineligible claims.

The number of claims and enquiries increased by 51.3% from 2015 to 2016, with eligible claims increasing by 73%, and enquiries by about 28%.

What's gratifying is as of July 2017, we have already received

404 claims and enquiries, which while still not a large number, exceeds last year's total. This shows more people are reaching out to SIDREC.

There is growing recognition that we are independent, and have the capital market expertise and knowledge, both from the regulatory side, and the practical aspects of the market.

SI: Moving forward, what does the future look like for SIDREC in the eyes of its CEO?


SN: It's a multi-layered objective.

Ultimately, it's to have built a sustainable quality service that's nimble and relevant to a developing market, accessible to all investor segments, and regarded as providing effective help to both the investing public and the market.

I hope in doing this, we will also contribute to building better investing habits, and ethical and professional conduct on the part of the market intermediaries.

I would like everyone who invests or is thinking of investing to know about SIDREC's service, so that if they ever hit a roadblock, they think of us. It's not so much about increasing the number of claims. That's not my target. It's to ensure the public know we are here. Just that knowledge, I feel, contributes to investor confidence.

With digitisation, increased mobility, and growing number of cross border transactions, it's also important to know that SIDREC is nationality neutral. Our services are open to all investors, as long as it relates to a transaction with our member.

We will continue to work with our peers and other stakeholders for a healthy capital market, supporting the regulators in facilitating an empowered and confident investing public. 

For more information, contact SIDREC at www.sidrec.com.my