

Finding amicable solutions to market disputes

Securities Industry Dispute Resolution Centre offers free services to investors with claims of under RM250,000



by Cheah Chor Sooi

PROBABLY driven by an urge to maximise returns amid market volatility, there is a growing tendency for investors to relax their guard. They at times even ignore the need to seek sufficient information or thoroughly understand their investment products.

This has inevitably resulted in more cases related to disclosure and mis-selling of late as observed by the Securities Industry Dispute Resolution Centre (Sidrec).

Issues consistently raised include inadequate level of explanation of products, risks and sales charges, and clients being persuaded under these circumstances to move monies from their savings or fixed deposit accounts to investment products such as unit trusts and structured products.

"On the other hand, there had also been instances of pretty reckless behaviour on the part of investors in signing off forms and entering into investments without any regard to what they were investing in or what the risks were because of the promise of a high return," Sidrec CEO Sujatha Sekhar Naik tells *FocusM*.

Sidrec offers free services to investors whose claims do not exceed RM250,000. It was set up in December 2010 by the Securities Commission (SC) pursuant to the Capital Markets and Services Act

(CMSA) 2007 to provide a specialist alternative dispute resolution channel for investors seeking redress for disputes relating to capital market products or services provided by capital market intermediaries through whom they have invested.

Sidrec has 192 members comprising investment banks, commercial banks, Islamic banks, stockbrokers, derivatives brokers, fund management companies, unit trust management companies, institutional unit trust advisers, corporate unit trust advisers as well as private retirement scheme providers and distributors.

Tackling frauds

Sujatha also highlights a continuing issue since 2014 with regard to payment and acceptance of cash for transactions, notwithstanding the warning to clients in prospectuses and application forms not to pay cash to agents, and also warnings to agents not to accept cash.

"Where a fraudster is intent on perpetrating a fraud, these warnings will not help," she reckons. "However convenient it may be or persuasive the agent is, do not pass cash to anyone for your investment, even your long-time agent or dealer representative/remisier."

Instead, she urges investors to pay by cheque, bank draft or online transfer directly to the bank, broker or fund management company, and to include personal details like investment accounts and names to ensure payments are tagged to their investment accounts.

Additionally, Sujatha opines that



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– Sujatha

the market with its wide distributorship channels faces the challenge of ensuring the necessary oversight over their representatives and agents.

On this note, she stresses that the principal is responsible for the conduct of its agents as long as the act or omission falls within the actual or apparent authority given to its agents. The SC has reiterated the clear accountability that comes with the relationship with the inclusion of Section 59A in the CMSA.

"This principal-agent relationship is an important component of investor protection and market accountability as we have a market where so much operates through representatives and agents, whether they are remisiers, unit trust consultants or private retirement scheme agents," she points out. "So,

having good internal controls and oversight of representatives and agents makes business sense."

While claims have been incrementally increasing the past five years, Sujatha believes they are still at relatively low levels and do not reflect the real need out there.

"This is where our current awareness campaign funded by the Capital Market Development Fund comes in," she enthuses. "The objective is simple – to ensure that those who need our help know we exist and how to find us, if and when they need our help."

Since its inception in 2011, Sidrec has handled 1,141 claims and enquiries. Of the 226 claims, 54% relate to dealings in securities followed by dealings in unit trusts (33%).

Fraud and defalcation

The nature of claims can be divided into three categories – market conduct, service standards, and member's practice/policies. As of Sept 30, market conduct relating to allegations of fraud and defalcation as well as mis-selling or misrepresentation led with 30% each.

"It is noteworthy that 80% of the 91 cases decided/resolved by Sidrec were accomplished via case management and mediation," asserts Sujatha. "This is exactly what Sidrec has been championing, that is, to encourage parties to resolve matters amicably."

Before approaching Sidrec, an investor must try to resolve his issue with the capital market intermediary. This will provide a member the opportunity to resolve the issue via its internal complaint handling process.

"However, if that fails because a member did not provide a satisfactory answer or did not reply within 90 days, then the investor can come to us," she says.

Sujatha also reminds claimants of the importance of maintaining records of their investments together with any important instructions or communications, including SMS or WhatsApp messages. Apart from being self-discipline in managing their investments, such information is also useful to support their positions in the event of disputes.

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