

IFSC SETTLEMENT MECHANISMS - A STUDY WITH RECOMMENDATIONS FOR GIFT IFSC



भारतीय कम्पनी सचिव संस्थान

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INTRODUCTION

Regulators settle cases to resolve alleged violations quickly and save the time and high costs of formal, drawn-out litigation.

Key Reasons for Settlement are that settlements help free up regulatory bandwidth and taxpayer money by avoiding long courtroom battles. Settlements provide faster commercial certainty and closure for businesses and markets. As per most settlement mechanisms, entities can resolve disputes without a formal admission or denial of wrongdoing. These mechanisms also allow regulators to secure monetary payments, investor restitution, or corrective actions efficiently.

Mature regulators across jurisdictions, including the U.S. Securities and Exchange Commission (SEC), routinely rely on negotiated settlements as part of modern enforcement strategy. Litigation is expensive, time-consuming, and uncertain.

While India domestic has a robust settlement mechanism for securities markets, courtesy SEBI [which is under thorough review of SEBI at present - As per the draft Settlement Regulations (issued for consultation by SEBI)]. SEBI has rebranded 'Summary Settlement' and calling it 'Fast Track Settlement' now), the international services centre at GIFT CITY needs one.

Several large corporates and market intermediaries have used the settlement route in India to resolve disclosure-related proceedings, delayed filings, broker compliance issues, and procedural violations without prolonged reputational warfare. In such matters, settlement has often allowed businesses to undertake corrective measures while avoiding years of uncertainty. The SEBI settlement mechanism has also proved useful in cases where violations were not necessarily fraudulent but arose from ambiguity in regulatory interpretation, e.g. disputes relating to takeover disclosures, inadvertent insider trading window violations, or delayed compliance reporting have frequently been resolved through settlement.

This research study attempts to do a deep dive into similar settlement mechanism at Dubai and also attempts a cursory comparison into other similar international finance centres like Singapore, Hong Kong, Luxembourg etc. The material for these has been sourced from the settlement architecture of each regulator. Towards the end, this study has attempted to provide a draft settlement regulations for IFSCA to consider.

We hope this paper spurs further research into the subject and is a starting point for the settlement architecture for the securities markets at the IFSC.

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CHAPTER-1

A deep dive into the SETTLEMENT PROCEEDINGS UNDER THE DFSA REGIME¹

Dubai International Financial Centre | Dubai Financial Services Authority

PART A – INSTITUTIONAL FRAMEWORK AND HIERARCHICAL STRUCTURE

1. Overview of the Institutional Framework

The Dubai Financial Services Authority (DFSA) is the independent regulator of financial services conducted in or from the Dubai International Financial Centre (DIFC). It operates under a common-law framework modelled on English law and is distinct from the UAE federal capital markets regime that applies outside the DIFC.

The Regulatory Law 2004 (DIFC Law No. 1 of 2004) establishes the core institutional architecture. Article 9 of the Law provides that the DFSA is made up of:

- the Chairman of the DFSA;
- the DFSA Board of Directors;
- the Financial Markets Tribunal (appointed by the DFSA Board);
- the Chief Executive and members of his staff; and
- any other DFSA committees as may be duly appointed from time to time.

2. Hierarchical Structure of the Key Bodies

2.1 DFSA Board of Directors

The Board sits at the apex of the DFSA's governance structure. It oversees the Chief Executive and staff and ensures a transparent separation of day-to-day regulatory activities from the oversight of the DFSA's performance.

- Appointed by the President of the DIFC for fixed terms.

1. Referenced from <https://dfsaen.thomsonreuters.com/rulebook/settlement>

- Comprises a majority of independent non-executive Directors (the Chief Executive is the only executive member).
- Responsible for ensuring the DFSA exercises its statutory powers in accordance with its objectives.
- Appoints the Chief Executive and the members of the Financial Markets Tribunal.
- Supported by Board Committees (Legislative Committee, Audit Committee, Risk Committee, Governance and Nominations Committee, etc.).

2.2 Chief Executive and Executive Staff

The Chief Executive is appointed by the Board and is responsible for the day-to-day management and operations of the DFSA. Key executive divisions relevant to enforcement and decision-making include:

- **Enforcement Division** — conducts investigations under Article 78, gathers evidence, recommends action, and leads settlement discussions.
- **Supervision Division** — authorises firms and individuals, supervises ongoing compliance, and may refer matters to Enforcement.
- **Policy and Legal / other support functions** — develop rules and policy, provide legal advice, and support decision-making processes.

2.3 Decision Making Committee (DMC)

The DMC is an internal DFSA committee that provides independence between investigation and decision-making for significant regulatory actions (RPP 7-7).

- Members are DFSA officers, employees or external persons acting under powers delegated by the Chief Executive.
- May sit as one member alone or as a panel of three.
- When considering enforcement action under Article 90, its members must have had no previous direct involvement in establishing the evidence.
- Reviews evidence, decides whether to issue a Preliminary Notice, hears representations, and decides whether to issue a Decision Notice.
- Also the decision-maker for any settlement of enforcement action that results in a Decision Notice (RPP 7-7-5).

2.4 Financial Markets Tribunal (FMT)

The FMT is an independent tribunal created under the Regulatory Law. Its members are appointed by the DFSA Board and must not be the Chairman, Chief Executive, or other Board members, officers, employees or agents of the DFSA.

- Conducts a full merits review of any DFSA decision referred to it under Article 90(5).
- Can take into account relevant new evidence that emerged after the original DFSA decision.
- May affirm, vary or set aside the DFSA's decision, or remit the matter with directions.
- Also hears certain Regulatory Proceedings prescribed under the Laws or Rules.
- Proceedings are determined on the balance of probabilities.

2.5 DIFC Courts

An appeal from a determination of the FMT may be made to the DIFC Courts, but only on a point of law. Permission to appeal is required from the FMT or the Court. The DIFC Courts operate under a common-law procedural framework and constitute the final judicial tier within the DIFC for these regulatory matters.

3. Hierarchical Decision-Making and Review Flow

The following sequence shows the typical hierarchical flow for enforcement matters that reach a formal decision:

Level 1	Enforcement Division (Investigation & Recommendation)
	Conducts investigation under Article 78. Gathers evidence. Prepares recommendation on findings and proposed sanction. Leads settlement discussions if offered. Members of this team do not decide the final sanction.
Level 2	Decision Making Committee (DMC)
	Independent internal decision-makers (no prior involvement in the investigation). Reviews evidence, issues Preliminary Notice, hears representations, and issues Decision Notice (including in settled cases).

	Approves settlements that result in a Decision Notice.
Level 3	Financial Markets Tribunal (FMT)
	Independent tribunal. Full merits review of the Decision Notice on referral by the affected person under Article 90(5). Can uphold, vary or set aside findings and quantum. Can consider new evidence. Not bound by the DFSA's view.
Level 4	DIFC Courts (Appeal on Point of Law Only)
	Final judicial tier within the DIFC. Appeal from FMT limited to a point of law. Permission required. Does not conduct a full rehearing of the facts.

Key separation of functions: Investigation (Enforcement Division) is deliberately separated from decision-making committee (DMC). The DMC is in turn subject to independent external review by the FMT, which itself is subject only to a narrow point-of-law appeal to the DIFC Courts. This architecture is designed to secure both operational efficiency and procedural fairness.

4. Where Settlement Sits within the Hierarchy

Settlement does not bypass the hierarchical structure; it operates within it:

1. **Enforcement Division** investigates and, where appropriate, offers settlement and conducts discussions.
2. **DMC** remains the formal decision-maker. Even in a settled case, the DMC (or authorised decision-maker) reviews and approves the settlement and issues the Decision Notice under Article 90.
3. **FMT referral right** is contractually waived by the settling firm as a term of the settlement. The statutory jurisdiction of the FMT is not extinguished; the firm simply agrees not to exercise it.
4. If the firm later attempts to refer despite the waiver, the DFSA can resist on contractual grounds, while the FMT's jurisdiction continues to derive from the statute.

5. Supporting Legislative and Policy Instruments

Instrument	Role in the Machinery
Regulatory Law 2004 (DIFC Law No. 1 of 2004)	Primary statute. Establishes DFSA structure, investigation powers (Art 78), sanctions (Art 90), FMT jurisdiction, and referral rights.

Instrument	Role in the Machinery
Markets Law 2012	Substantive obligations (offers, prospectuses, market abuse, etc.) that frequently generate enforcement cases.
DFSA Rulebook - Enforcement Module (ENF)	Rules on investigations, remedies, enforceable undertakings and settlement.
Regulatory Policy and Process (RPP) Sourcebook	Detailed policy on decision-making (Chapter 7), penalty calculation (Chapter 6), settlement discount (6-8), and DMC procedures.
Schedule 3 to the Regulatory Law	Lists decisions that attract the full decision-making procedure (Preliminary Notice → representations → Decision Notice).

PART B – SETTLEMENT PROCEEDINGS

6. Nature of Settlement under the DFSA Regime (Refer Point no.6 The Settlement Decision Maker)

Settlement in the DIFC is not a statutory alternative to adjudication. The Regulatory Law 2004 (DIFC Law No. 1 of 2004) contains no dedicated settlement provision comparable to section 15JB of the SEBI Act 1992, section 201 of the Hong Kong Securities and Futures Ordinance, or section 232 of the Singapore Securities and Futures Act 2001.

Settlement operates as an agreed exercise of the ordinary sanctioning power under Article 90. The DFSA imposes the fine (or other sanction) exactly as it would in a contested matter. What the settlement does is:

- Fix the amount of the financial penalty by agreement;
- Apply any available settlement (and, where applicable, mitigation) discount; and
- Secure the firm's contractual waiver of the Article 90(5) right to refer the Decision Notice to the Financial Markets Tribunal (FMT).

The statutory right of referral is therefore not excluded by operation of law; it is contracted away as a term of the settlement. Decision Notices in settled matters (for example, Sarwa Digital Wealth) expressly record that the firm has agreed not to exercise the referral right.

7. When Settlement is Resorted To versus Full Enforcement (Point no.5 The DFSA Settlement Mechanism)

The DFSA does not treat settlement and enforcement as two completely separate tracks that run in parallel from the outset. Settlement is one possible outcome of the enforcement process. The process itself is sequential and risk-based.

7.1 Overall Flow

1. **Trigger** – Complaint, supervisory discovery, or internal referral.
2. **Initial Assessment** – DFSA decides whether the matter warrants further action (risk-based approach focused on DIFC integrity).
3. **Investigation (if warranted)** – Formal investigation under Article 78. Information-gathering powers are used. DFSA generally does not publicise the start of an investigation unless public interest requires it.
4. **Post-Investigation Decision Point** – The key fork. DFSA decides which path (or combination of paths) to follow.

7.2 Path A – Settlement is Resorted To

Settlement is considered (and usually offered) when:

- The facts are reasonably clear and the firm is prepared to accept the core findings;
- The firm is willing to cooperate, remediate, and reach agreement quickly;
- Early resolution would achieve the DFSA's objectives more efficiently (earlier consumer redress, saving of DFSA and firm resources, and a timely public message);
- The matter is suitable for a financial penalty (or other Article 90 sanction) that can be fixed by agreement; and
- The firm is prepared to waive its statutory right to refer the Decision Notice to the FMT.

Practical triggers for offering settlement:

- After the investigation is substantially complete and the DFSA has a clear view of the contraventions and the appropriate sanction;

- Usually formalised by an Advanced Warning Notice (or equivalent) that sets out the proposed findings and the settlement window (normally 28 days).

What settlement achieves:

- Agreement on the facts and the amount of the fine (calculated under the five-step method);
- Application of the 30% early-settlement discount (if within the window);
- Possible additional mitigation discount at Step 3 for cooperation;
- Publication of a Decision Notice that records the settled outcome; and
- Closure of the matter without a contested DMC hearing or FMT referral.

Examples: Sarwa Digital Wealth, Ark Capital Management, R.J. O'Brien (MENA), and Ed Broking (MENA) all settled after investigation and within (or treated as within) the settlement window.

7.3 Path B – Full / Contested Enforcement

Full enforcement (referral to the Decision Making Committee and possible further referral to the FMT) is used when:

- Settlement discussions fail or are not appropriate;
- The firm disputes the facts, the legal characterisation, or the proposed sanction and is not prepared to settle;
- The firm does not accept the waiver of the FMT referral right;
- The matter involves issues of principle that the DFSA considers should be decided by an independent decision-maker or tribunal;
- Settlement would not adequately protect the integrity of the DIFC or achieve the necessary deterrent effect; or
- The firm simply misses the settlement window and the DFSA decides not to extend it (as in La Tresorerie).

7.3 Practical sequence in contested cases

1. Investigation concludes.
2. Settlement is either not offered or is offered but not accepted within the time limit.

3. Matter is referred to the Decision Making Committee (DMC) – independent internal decision-makers who were not involved in the investigation.
4. DMC issues a Decision Notice.
5. The firm may refer the Decision Notice to the Financial Markets Tribunal (FMT) under Article 90(5).
6. FMT conducts a full merits review (it can uphold, vary, or set aside findings and the quantum).
7. Further appeal on a point of law only lies to the DIFC Courts.

Example: Al Ramz Capital – the firm contested the Decision Notice, referred it to the FMT, and the Tribunal upheld the fine after a full review (approximately 20 months from Decision Notice to FMT decision on a USD 25,000 fine).

7.4 Decision Matrix

Situation	Typical Path	Reason
Clear administrative / reporting breach	Fixed Penalty Notice first; if unpaid → full enforcement	Fast, low-cost disposal of technical breaches
Systems failure suitable for remediation	Enforceable Undertaking (often instead of or alongside a fine)	Better regulatory outcome is verified remediation rather than payment
Serious misconduct + cooperative firm	Settlement (with or without Enforceable Undertaking)	Efficiency + early resolution
Serious misconduct + non-cooperative or disputing firm	Contested path (DMC → FMT)	Need for independent determination and public message
Settlement reached after the 28-day (or extended) window	Settlement still possible, but no 30% discount	Timing rule is strictly applied

Bottom line: The DFSA does not “choose enforcement or settlement” at the outset. It investigates first, then decides whether settlement is a viable and

appropriate way to resolve the matter. Settlement is preferred when the firm is prepared to accept the core findings within a short, fixed window; full enforcement is used when settlement is not possible or not appropriate.

8. Practical Sequence of Settlement Proceedings

1. **Trigger and Assessment** – Complaint, internal referral, or supervisory discovery. DFSA assesses whether further action is warranted.
2. **Investigation** – Formal investigation under Article 78. Information-gathering powers (documents, interviews, etc.) are used.
3. **Post-Investigation Assessment of Outcomes** – Enforcement considers options: no further action, settlement discussions, Enforceable Undertaking, referral to the DMC, court action, or sharing with other regulators.
4. **Offer of Settlement Opportunity** – In appropriate cases, the DFSA offers the person the opportunity to settle. It sets a clear timetable (normally 28 days from the offer, usually after an Advanced Warning Notice or equivalent). Exceptionally the DFSA may allow a longer period for complex cases or large volumes of evidence (RPP 6-8-2 and 6-8-3).
5. **Settlement Discussions** – Discussions cover the facts, the contraventions, the quantum of any financial penalty (calculated under the five-step framework), any other sanctions or remedial terms, and the waiver of the FMT referral right. Discussions are without prejudice.
6. **Agreement in Principle** – The parties agree the facts and matters relied on, the amount of the financial penalty (or other outcome), and the contractual waiver of the Article 90(5) referral right.
7. **Internal Authorisation** – The proposed settlement is reviewed and approved by authorised decision-makers (DMC members who were not involved in the investigation, or other authorised officers).
8. **Decision Notice** – A Decision Notice is issued under Article 90 recording the settled outcome, the counterfactual (pre-discount) figure where relevant, the applied discount, and the waiver of the referral right. The Notice is published.
9. **Payment / Compliance and Closure** – The firm pays the fine (normally within 14 days of publication or as agreed) and complies with any

other terms. The matter is closed. If the firm later attempts to refer the Notice despite the waiver, the DFSA can resist on contractual grounds, although the FMT's jurisdiction derives from the statute. If payment is not made, the amount due will be treated as debt and recoverable and is subject to appeal before the DIFC Courts. (Refer Point no.14 Payment, Disgorgement and Costs.)

9. Alternative Track – Enforceable Undertaking (Refer Point no.7.2 Enforceable Undertaking)

An Enforceable Undertaking (ENF Chapter 8 / RPP 5-15) is a distinct remedial instrument, not a penalty. The firm gives a published commitment to specific remedial conduct. It can be varied or withdrawn and is enforceable on breach. It is used where a systems failure is better corrected by verified remediation than by a fine.

Example: Moore MKM (26 September 2024) – a Registered Auditor had failed over a three-year period to assemble complete and final sets of audit documentation. The DFSA accepted an undertaking rather than imposing a fine, acknowledging the firm's cooperation. Incomplete audit files were treated as a systems failure best corrected by a verified remediation programme.

10. Computation of Financial Penalties – The Five-Step Framework

(Refer Point No.8 Methodology for Financial Penalty and the Settlement Discount)

The DFSA uses a structured five-step framework for financial penalties (RPP 6-4 to 6-8 for firms; parallel provisions at RPP 6-6 for individuals). Settlement interacts with this framework in distinct ways.

10.1 The Five Steps

Step	Description	Discount / Adjustment
Step 1	Disgorgement of economic benefit (profit made or loss avoided) + interest (up to 12%)	Never discounted
Step 2	Starting figure reflecting seriousness of the contravention (impact, nature, deliberateness, recklessness)	—

Step	Description	Discount / Adjustment
Step 3	Adjustment for aggravating and mitigating factors (cooperation, self-reporting, remediation, prior history, etc.) – usually a percentage	Can produce a “mitigation discount”
Step 4	Upward adjustment for deterrence if the Step 3 figure is insufficient	Discretionary
Step 5	Settlement discount (if agreed within the specified period)	Fixed 30% on the punitive element only

Key principles:

- Steps 3 and 5 are separate and can compound.
- Disgorgement (Step 1) is never reduced by the settlement discount.
- There is no rigid tariff; the figure is judgment-based within the structured framework.
- Serious financial hardship adjustment (RPP 6-7) is available separately for individuals.

10.2 Settlement Discount Period (RPP 6-8-2 and 6-8-3)

In most cases, the DFSA will specify that a Person has **28 days** in which to reach agreement with the DFSA. If settlement is agreed within the 28-day period, or such other period allowed by the DFSA, the DFSA will apply a 30% discount to the amount of the financial penalty.

In exceptional cases, the DFSA may allow a period longer than 28 days (particularly complex cases or large volumes of evidence). If agreement is reached after the specified period, the 30% settlement discount is not available – even if the firm later settles.

11. Case-by-Case Application of the Five Step Method

11.1 Sarwa Digital Wealth (May 2024) – Pure penalty with mitigation + settlement discount

- **Step 1:** No disgorgement.
- **Step 2:** USD 390,000 (15% of USD 2.6 million investor commitments).

- **Step 3:** 30% mitigation for immediate halt of the offer, full return of all monies, and parallel FSRA action → USD 273,000 (counterfactual).
- **Step 4:** No deterrence uplift.
- **Step 5:** 30% settlement discount → $273,000 \times 0.70 = \text{USD } 191,100$.

Outcome: Firm paid 49% of the original seriousness figure.

11.2 Ark Capital Management (February 2026) – Pure penalty + simple 30% settlement

- Steps 1-4: produced a counterfactual of USD 720,000.
- Step 5: 30% early-settlement discount → $720,000 \times 0.70 = \text{USD } 504,000$.

Outcome: Clean application of the standard 30% discount to a pure penalty figure.

11.3 R.J. O'Brien (MENA) (December 2023) – Mitigation + settlement discount (compounding)

- Step 1: Higher starting figure (approximately USD 2.79 million).
- Step 2: 30% mitigation for Enforceable Undertaking and cooperation → USD 1,955,382 (counterfactual after Step 3).
- Step 3: No further deterrence uplift.
- Step 4: Additional 30% settlement discount → $1,955,382 \times 0.70 = \text{USD } 1,368,767$.

Outcome: Two successive 30% reductions applied at different steps.

11.4 Ed Broking (MENA) (February 2026) – Hybrid (disgorgement + penalty)

- Step 1: Disgorgement USD 175,343 (USD 148,039 benefit + USD 27,304 interest) – undiscounted.
- Steps 2-4: Penalty element of USD 399,761.
- Counterfactual total: USD 575,104.
- Step 5: 30% discount applied only to the penalty element → $399,761 \times 0.70 = \text{USD } 279,833$.
- Final fine: $\text{USD } 175,343 + \text{USD } 279,833 = \text{USD } 455,176$.

Outcome: Demonstrates the disgorgement carve-out in public arithmetic.

11.5 La Tresorerie (April 2020) – Late settlement (discount withheld)

- Settlement was reached, but after the period set by the DFSA for the 30% discount.
- Penalty element received nil discount.
- Final fine: USD 612,790 (disgorgement USD 261,154 + full penalty USD 351,636).

Outcome: Timing is decisive. Missing the window (normally 28 days) eliminates the settlement discount even if the firm later settles.

11.6 Al Ramz Capital (Decision Notice June 2024; FMT upheld February 2026) – Fully contested

- No settlement.
- Matter referred to the FMT, which conducted a full merits review and upheld the Decision Notice.
- Fine remained the original assessed amount of USD 25,000 with nil discount.

Outcome: Contesting removes the 30% discount entirely and exposes the firm to the full process (approximately 20 months from Decision Notice to FMT decision, plus further point-of-law appeal window to the DIFC Courts).

Note: No decided case law exists in the public record that isolates or quantifies a pure Step 4 deterrence uplift applied in isolation after a contested hearing. Serious financial hardship reductions under RPP 6-7 appear in individual cases but are not broken out with precise arithmetic in the firm-level notices examined.

12. Summary of Settlement Variants and Computational Effect

Method	When Available	Computational Effect	Example
Early settlement (within 28 days / extended window)	Agreement reached inside the DFSA-set period	30% off punitive element only	Ark; Sarwa (post-mitigation)

Method	When Available	Computational Effect	Example
Mitigation + settlement (compounding)	Cooperation recognised at Step 3 and early settlement	Successive percentage reductions	R.J. O'Brien (MENA)
Hybrid with disgorgement	Quantifiable benefit exists	Disgorgement at 100% + 30% off penalty only	Ed Broking
Late settlement	Agreement after the set period	Full punitive element (no 30%)	La Tresorerie
Enforceable Undertaking	Systems/process failure suitable for remediation	No financial penalty; binding remedial programme	Moore MKM
Contested / no settlement	Firm elects to refer or does not settle	Full assessed figure; no discount	Al Ramz Capital

13. Conclusion

The DIFC settlement proposition is not principally about the 30%. It is about compressing a multi-year contested exposure (investigation → Decision Notice → FMT → possible Court appeal) into a matter of weeks, with the discount as the secondary, transparent benefit.

Settlement is available only after investigation and only when the firm is prepared to accept the core findings and waive its statutory referral right. The DFSA retains full discretion whether to offer settlement, the length of the window, and whether to accept a late settlement without the discount.

The five-step framework, the fixed 30% discount, the disgorgement carve-out, and the public disclosure of the counterfactual together produce a structured, transparent, and predictable settlement regime within a common-law free zone.

The architecture deliberately separates investigation (Enforcement Division), internal decision-making (DMC), and external independent review (FMT → DIFC Courts). Settlement operates inside this hierarchy rather than outside it, combining operational speed with structural safeguards against both arbitrary decision-making and unchecked executive power.

Settlement / Consent Mechanism at the Dubai Financial Services Authority (DFSA)

A legal and regulatory research study of the Preliminary Notice and Settlement / Consent Mechanism under the DIFC Regulatory Law 2004

EXECUTIVE SUMMARY

- The DFSA settlement mechanism is principally governed by RPP 5-15, read with the penalty provisions in Chapter 6 and the publicity provisions in Chapter 5.
- Settlement is available at any stage of the enforcement process, before or after enforcement action has commenced. The DFSA nevertheless states that it will settle only when it has sufficient understanding of the nature and gravity of the suspected misconduct to assess an appropriate outcome (RPP 5-15-2 and 5-15-4).
- Settlement discussions are conducted on a without-prejudice basis. If settlement fails, statements and admissions made during the settlement discussions cannot subsequently be relied upon by either side (RPP 5-15-5).
- The case team conducts negotiations. Acceptance is decided by a Settlement Decision Maker, a senior DFSA staff member who has not been directly involved in establishing the evidence underlying the proposed enforcement action (RPP 5-15-10 to 5-15-12).
- Settlement is generally documented through an agreed Notice of Decision, an Enforceable Undertaking, or both (RPP 5-15-13).
- Schedule 3 paragraph 3(1)(c) of the Regulatory Law is critical to the consent architecture. It disapplies with the ordinary procedure of a Preliminary Notice and an opportunity to make representations where the person has requested or consented in writing to the making of the decision. Paragraph 3(2) is not disapplied – the DFSA must still give the person a formal written Decision Notice stating the decision, the reasons for it and the date on which it takes effect.
- The standard settlement incentive is a 30% reduction of the financial penalty when agreement is reached within the period specified by the DFSA, ordinarily 28 days. The reduction does not apply to the portion of the financial penalty representing disgorgement (RPP 6-8-2 and 6-8-4).

- Settlement outcomes are ordinarily public. RPP 5-17-15 provides for publication of settled enforcement outcomes, including the Notice of Decision or Enforceable Undertaking, subject to limited legal or public-interest constraints.
- The settled Decision Notices examined in this paper record the Person's agreement not to refer the matter to the FMT under Article 90(5). This is properly described as an express, contractually agreed condition precedent of the settlement agreement, by which the Person agrees not to exercise a right that the Regulatory Law itself confers – not as a statutory extinguishment of the referral right, and not as something DFSA policy can itself abolish.
- An Enforceable Undertaking is not synonymous with settlement. It is one possible settlement instrument and can also be offered and accepted outside a conventional settlement of a financial-penalty matter.

1. Introduction and Research Methodology

The purpose of this study is to explain the DFSA settlement mechanism as a coherent legal and regulatory framework. The starting point is the user's research brief, which identified the matters that a complete study should cover: the legal basis of settlement, its relationship with the Preliminary Notice, timing, procedure, decision-making authority, penalty calculation, settlement discount, publication, finality, admissions, repeat settlement, Enforceable Undertakings, Financial Markets Tribunal proceedings and the practical operation of the framework through recent cases.

Those issues are treated here as substantive research themes and then the paper first establishes the statutory and policy architecture, then places settlement within the ordinary enforcement process, analyses the settlement route, and finally tests the legal propositions against recent DFSA Decision Notices. The FAQ at the end is for a quick reference only.

The primary materials studied for the research comprise the DFSA Regulatory Policy and Process Sourcebook, the February 2020 RPP amendment material, the Financial Markets Tribunal Rules of Procedure, and the Decision Notices concerning Ark Capital Management (Dubai) Limited, Ed Broking (MENA) Limited and Sarwa Digital Wealth Limited. These materials are supplemented by official DFSA publications and the DFSA's publicly available regulatory materials where necessary to verify dates, current enforcement practice and the statutory framework. The research also uses the April 2022 settlement

provisions as the operative RPP text for the study, while recognising that the Regulatory Law and Rulebook are subject to amendment. The RPP expressly describes itself as policy and process information that is indicative and non-binding and states that it is not an exhaustive statement of the DFSA's policy on its statutory powers and discretions (RPP 1-2-1 and 1-2-2). Accordingly, this paper distinguishes statutory propositions derived from the Regulatory Law from DFSA policy propositions derived from the RPP and from conclusions drawn from enforcement practice.

2. Legal and Regulatory Architecture

2.1 The Foundation

The settlement mechanism operates within the DFSA's wider statutory enforcement powers. Article 78 of the Regulatory Law provides the DFSA's investigation power, while Article 80 supports the exercise of information-gathering powers during an investigation. Article 89 provides for Enforceable Undertakings. Article 90 provides the principal financial-penalty and direction powers, including the statutory right in Article 90(5) to refer an Article 90 decision to the Financial Markets Tribunal.

These provisions provide the substantive powers that may be resolved or implemented through settlement. The detailed settlement process is contained in RPP 5-15, and the financial incentive for settlement is contained in RPP 6-8. This distinction matters because the RPP is guidance on how the DFSA may exercise its statutory powers; it is not a substitute for the statutory power itself.

2.2 Schedule 3

Schedule 3 establishes the ordinary decision-making procedure for decisions to which it applies. Where the DFSA proposes a Schedule 3 decision, the affected Person ordinarily receives a Preliminary Notice and an opportunity to make oral and/or written representations. The DMC then determines the matter and issues the Decision Notice where appropriate.

Schedule 3 creates a specific exception under paragraph 3(1): the ordinary procedure – the Preliminary Notice and the opportunity to make oral and/or written representations – does not apply to a decision in relation to a person if that person has requested, or consented in writing to, the making of the decision. It is important to be precise about what this exception does and does not disapply. Only the representations stage is disapplied. Paragraph 3(2) is not disapplied and continues to apply in full: it requires the DFSA to

give the person a formal written Decision Notice stating the decision that has been made, the reasons for it, and the date on which it takes effect. This is the statutory mechanism that gives effect to a consented decision without requiring the full contested procedure, while still guaranteeing the person a reasoned, written record of the outcome.

The significance for settlement is substantial. A settled Notice of Decision should not be described as an ordinary Decision Notice issued after a Preliminary Notice and representations in which the procedural rights were merely waived informally. The statutory scheme instead recognises a different procedural condition: written consent to the making of the decision. The RPP reinforces this structure by stating that the process for reaching a settled outcome differs from the process by which the DFSA formally exercises a discretionary power and that most of Chapter 7 and many Schedule 3 requirements do not apply to the settlement process (RPP 5-15-9).

2.3 RPP guidance

The RPP is issued under Article 116(2) of the Regulatory Law. The RPP itself states that it contains policy and process information that is indicative and non-binding and that it is not an exhaustive source of DFSA policy. The settlement discount should therefore be understood as a regulatory-policy incentive published by the DFSA, rather than as a statutory right to a 30% reduction. Likewise, the Settlement Decision Maker framework is an internal DFSA decision-making arrangement established through the RPP and exercised within the DFSA's statutory powers.

3. Development of the Settlement Framework

The settlement framework should be understood as part of the DFSA's broader development of an enforcement system capable of producing both contested and negotiated regulatory outcomes. It shows that the settlement has been embedded within the enforcement framework for a substantial period, while the 2020 consultation paper demonstrates a deliberate refinement of the penalty-setting architecture, including the five- step methodology and settlement discount.

The current framework is therefore not simply an informal practice developed through individual cases. It is a published regulatory process that identifies when settlement may be considered, how negotiations are conducted, who approves the outcome, what form the settlement may take and how the financial penalty is adjusted.

3.1 Objectives

The DFSA's rationale for settlement is practical as well as regulatory. RPP 5-15-3 recognises that settlement can result in earlier compensation for consumers, conserve DFSA and industry resources and promote good business and regulatory practices. RPP 6-8-1 similarly recognises the benefit of resolving financial penalties without the cost of prolonged contest.

- For the DFSA, the mechanism can shorten the enforcement cycle, reduce the resources required for contested proceedings and secure remediation or compensation earlier.
- For the Person, it can provide greater certainty as to the regulatory outcome, avoid the costs of a contested process and, where the relevant conditions are met, reduce the financial penalty by 30%.

The regulatory bargain is consequently not a private compromise in the ordinary commercial sense. The DFSA retains control over whether the proposed outcome is appropriate, and the completed settlement remains subject to the DFSA's transparency policy.

4. The Enforcement Architecture

The relationship between settlement and the Preliminary Notice is best understood by considering the common enforcement process. The DFSA may begin with information or a regulatory concern arising from supervisory activity, a complaint, a self-report or from any other source. An investigation may then commence under Article 78, supported by the information gathering powers available under Article 80.

Where enforcement action is considered appropriate, the matter is ordinarily considered through the DMC. The DMC may comprise one member or three members, and the members must not have had previous direct involvement in establishing the evidence on which the proposed action is based. In the ordinary route, the affected Person receives a Preliminary Notice setting out the proposed action and relevant supporting material, followed by an opportunity to make representations.

Settlement does not sit only at the end of this sequence. RPP 5-15-2 expressly permits settlement discussions at any stage of the enforcement process, before or after enforcement action has commenced. The practical consequence is that a settlement discussion may arise during an investigation, following a Preliminary Notice, or later in the life of an enforcement matter.

The following figure presents the flow in an integrated form.

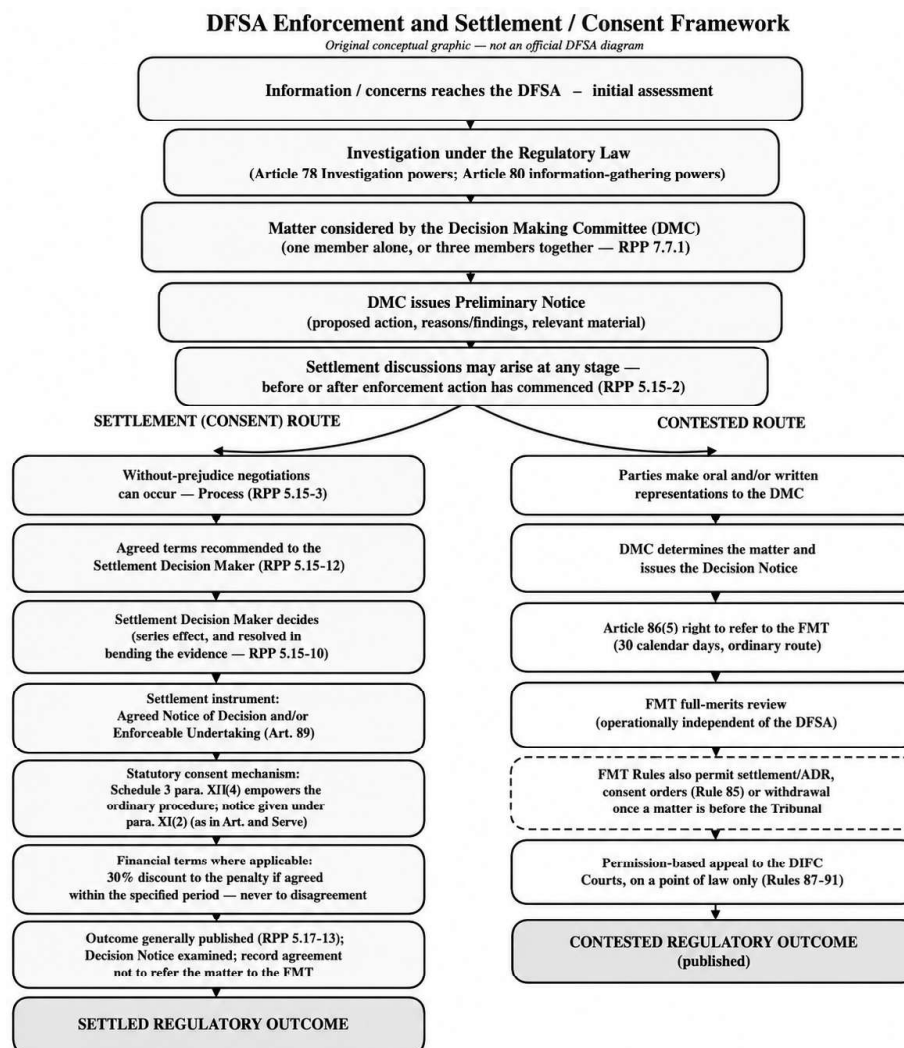


Figure 1. DFSA enforcement and settlement / consent framework. Original analytical synthesis based on the Regulatory Law, RPP Sourcebook and FMT Rules of Procedure; not an official DFSA diagram.

4.1 The Ordinary Contested Route

In the contested route, the Preliminary Notice is the instrument that opens the representations stage. The Person may make written and/or oral representations to the DMC. The DMC then determines whether and on what terms to proceed and issues the Decision Notice. Where the statutory

conditions are met, Article 90(5) gives the Person a right to refer the matter to the FMT. The RPP states that the FMT is operationally independent of the DFSA and conducts a full merits review, considering the facts afresh.

4.2 The Settlement Route

The settlement route replaces the contested determination of disputed issues with negotiated agreement. The case team conducts the settlement negotiations with the Person. If agreement is reached, the case team recommends the agreed terms to the Settlement Decision Maker. The Settlement Decision Maker then decides, on behalf of the DFSA, whether to accept the settlement (RPP 5-15-12).

This separation is a central safeguard. The person who negotiates the settlement does not simply approve the negotiated result. Approval is placed with a senior DFSA staff member who has not been directly involved in establishing the evidence on which the proposed enforcement action is based (RPP 5-15-10).

5. The DFSA Settlement Mechanism

5.1 When settlement becomes available

RPP 5-15-1 defines settlement as a resolution between the DFSA and a Person subject to potential enforcement action to agree an outcome resulting from an investigation. The provision is deliberately broad: a Person who is or may become the subject of any form of enforcement action arising out of, or during the course of, an investigation may enter settlement discussions.

RPP 5-15-2 then confirms that settlement discussions may occur at any stage, before or after enforcement action has commenced. This flexibility is important because the DFSA's preferred policy is to settle as early as possible, but only when the DFSA is sufficiently informed about the nature and gravity of the suspected misconduct to assess an appropriate outcome (RPP 5-15-4).

It is therefore more accurate to describe the settlement window as open throughout the enforcement process than to identify a fixed number of legally defined settlement stages. For analytical purposes, the process can be viewed at three practical points — during investigation, after formal enforcement action has begun, and after a matter has progressed further — but these are descriptive stages rather than separate legal gateways.

5.2 Role of the DFSA's assessment of the misconduct

The DFSA expressly states that it will settle only when it is confident that it

understands the nature and gravity of the suspected misconduct sufficiently to assess the appropriate outcome (RPP 5-15-4). The investigation therefore remains the evidentiary foundation of settlement.

This requirement also explains why settlement should not be regarded as a substitute for regulatory investigation. The negotiated nature of the outcome does not remove the DFSA's need to understand what occurred, what rules or laws may have been contravened, the seriousness of the conduct and what regulatory response is proportionate.

5.3 Without-prejudice negotiations

Settlement discussions are conducted on a without-prejudice basis. RPP 5-15-5 provides that admissions or statements made during the discussions, and documents recording those discussions, may not subsequently be relied upon by either side. The purpose is to permit genuine negotiation without creating an evidentiary penalty if agreement is not reached.

The protection applies to the negotiation process. It should not be confused with confidentiality of the concluded settlement. The DFSA separately applies its publicity policy to settled enforcement outcomes, and RPP 5-17-15 generally provides for publication.

5.4 Disclosure of material during settlement

The DFSA may provide the Person with relevant material on which it has relied in making its findings. Privileged information and material that the DFSA does not have authority to disclose, including information received confidentially from another regulator, may be withheld (RPP 5-15-8).

The result is a settlement process intended to permit informed negotiation while respecting the DFSA's legal and regulatory restrictions on disclosure.

6. The Settlement Decision Maker

The Settlement Decision Maker is the defining feature of DFSA's settlement process. RPP 5-15-10 requires the decision whether to accept a settlement offer to be taken by a senior member of DFSA staff who has not been directly involved in establishing the evidence on which the decision to take action is based.

The role should not be described as an external or independent tribunal. It is an internal DFSA decision-making role. Its significance lies in separation of functions: the case team negotiates, while another senior officer decides whether the negotiated outcome is acceptable.

RPP 5-15-11 provides a further conflict safeguard where the Settlement Decision Makers generally come from the same pool of staff as persons who may sit on the DMC, but where a Settlement Decision Maker has considered a matter that ultimately does not settle, that person will generally not subsequently sit on the DMC for that matter.

The RPP does not prescribe a publicly stated professional qualification for Settlement Decision Makers. The published safeguard is functional rather than credential-based: seniority, separation from the evidentiary development of the case and avoidance of subsequent participation in the contested decision-making process.

6.1 Negotiation and approval are separate functions

The institutional design reflects a broader administrative-law principle: a regulator should not allow the negotiating team to become the sole judge of whether its own negotiated outcome is appropriate. The DFSA model preserves internal regulatory control while introducing a distinct approval stage.

The arrangement also gives the Person a clearer understanding of the status of negotiations. Agreement reached with the case team is not, by itself, the final regulatory outcome. Acceptance by the Settlement Decision Maker is required.

7. Form and Legal Character of a Settlement

7.1 Agreed Notice of Decision

RPP 5-15-13 provides that the DFSA will generally settle an enforcement matter on the basis of a notice of decision, an Enforceable Undertaking, or both. Where settlement results in a notice of decision, the terms are documented as a legally enforceable agreement executed by all parties.

The agreed Notice of Decision therefore combines two characteristics. It is the DFSA's exercise of its administrative powers under Article 90 – recording the regulatory action taken, such as a financial penalty, censure or direction – while the agreement through which the parties settle the matter gives the agreed outcome contractual enforceability. This document should not, however, be confused with a private settlement agreement from statutory authority: the DFSA's action continues to derive from its Article 90 statutory powers, not from the settlement contract itself.

7.2 Enforceable Undertaking

An Enforceable Undertaking is a written promise under Article 89 to do or

refrain from doing specified acts. RPP 5-15-15 describes it as an alternative mechanism for addressing the DFSA's concerns and recognises that it may include remedial actions that would not otherwise be available through a Notice of Decision.

The EU mechanism has a wider temporal scope than a conventional financial penalty settlement. RPP 5-15-16 permits an EU to be offered and accepted before, during or after an investigation, a decision or the commencement of litigation or court proceedings. Neither the DFSA nor the Person has an absolute power to compel the other to accept an EU.

In an enforcement matter, the DFSA will generally only accept an EU that contains an admission or acknowledgement of the relevant contraventions or the DFSA's concerns, undertakings addressing those concerns and agreement to make the EU public (RPP 5-15-17). An EU may also contain an undertaking to pay a pecuniary penalty and/or the DFSA's costs (RPP 5-15-18). It does not take effect until formally accepted by the DFSA Chief Executive or a delegate (RPP 5-15-19).

7.3 Settlement and EU are not synonymous

Settlement is the process or negotiated resolution; an agreed Notice of Decision and an Enforceable Undertaking are two distinct statutory instruments that may be used to implement it. They derive from different statutory powers and have different legal characters: an agreed Notice of Decision is the DFSA's exercise of its Article 90 sanctioning powers (financial penalties, censures and directions), while an Enforceable Undertaking is a voluntary commitment accepted directly by the DFSA under Article 89. A single settlement package may combine both – for example, a Notice of Decision imposing a financial penalty alongside an EU addressing remedial commitments – but each instrument retains its own statutory source and legal effect, and neither is simply a substitute for the other.

8. Methodology for Financial Penalty and the Settlement Discount

8.1 The five-step framework

The DFSA's penalty guidance separates disgorgement from the financial penalty. RPP 6-4-2 describes a five- step framework:

Step 1 removes economic benefits derived directly or indirectly from the contravention;

Step 2 determines a figure reflecting seriousness;

Step 3 adjusts that figure for aggravating and mitigating circumstances;
 Step 4 permits an upward adjustment where necessary for deterrence; and
 Step 5 applies the settlement discount where applicable.

Step	Purpose	Key settlement implication
1. Disgorgement	Remove economic benefit derived from the contravention	Not subject to the settlement discount
2. Seriousness	Determine a figure reflecting seriousness of the contravention	Forms part of the discountable penalty
3. Adjustment	Aggravating and mitigating circumstances	Applied before the settlement discount
4. Deterrence	Upward adjustment where necessary to achieve deterrence	Applied before the settlement discount
5. Settlement discount	Recognise the regulatory benefit of agreement	30% in the ordinary specified period

The distinction is legally and analytically important. The total amount payable may contain both disgorgement and a punitive/deterrent financial penalty. The settlement discount does not reduce the disgorgement component. RPP 6-8-4 expressly excludes the portion of a financial penalty that specifically equates to disgorgement of profit accrued or loss avoided.

8.2 Step 1: Disgorgement

The DFSA seeks to deprive a Person of economic benefits derived directly or indirectly from a contravention where those benefits can practicably be quantified. The guidance ordinarily contemplates interest on the benefit. The purpose is distinct from punishment: disgorgement removes the economic benefit rather than rewarding the Person with a discounted cost of wrongdoing.

8.3 Step 2: Seriousness

The seriousness assessment reflects the impact and nature of the contravention and whether it was deliberate or reckless. The precise methodology differs between firms and individuals. For firms, the RPP identifies factors such as impact on consumers or investors, effect on markets, frequency, systemic weaknesses, senior management awareness and integrity.

8.4 Step 3: Aggravating and mitigating factors

The DFSA may increase or decrease the Step 2 figure to reflect aggravating and mitigating factors. Cooperation, self-reporting, remediation and restitution can be relevant mitigation. Prior disciplinary history, concealment and repeated misconduct can aggravate the position. Importantly, these adjustments are analytically distinct from the settlement discount.

8.5 Step 4: Deterrence

The DFSA may increase the Step 3 figure where it considers that the penalty would otherwise be insufficient to deter the Person or others from similar misconduct. The adjustment is upward-only. The existence of settlement does not remove the DFSA's ability to impose a deterrent penalty before applying the settlement discount.

8.6 Step 5: Settlement Discount

RPP 6-8-2 provides that, in appropriate cases, the DFSA will offer an opportunity to settle and will specify a clear and reasonable timetable. In most cases the Person has 28 days to reach agreement. Where agreement is reached within the 28-day period, or another period allowed by the DFSA, the DFSA applies a 30% discount to the amount of the financial penalty.

The period may be extended in exceptional cases, for example where the case is particularly complex or involves a particularly large volume of evidence (RPP 6-8-3). The 30% reduction should therefore not be described as an unconditional entitlement arising merely because the matter is settled.

8.7 Calculation

For analytical purposes, the settlement calculation can be represented as follows:

Total amount payable = Disgorgement + [(Step 2 + Step 3 adjustment + Step 4 deterrence) × 70%]

9. Timing, Duration and Procedural Efficiency

The DFSA's settlement framework specifies a precise period principally for the purpose of obtaining the settlement discount. The ordinary period is 28 days, subject to the DFSA allowing another period. The RPP does not establish a general statutory maximum for the length of the investigation or the overall settlement process.

This distinction is important when describing the efficiency of settlement. Settlement can be faster than a contested enforcement matter because it avoids the full representations, DMC determination, FMT reference and possible appeal sequence. It does not follow that every settlement is completed within 28 days. The 28-day period is the ordinary settlement-agreement window specified by the DFSA for the discount, not a statutory deadline for completing the entire enforcement matter.

Where a matter is unusually complex or the evidence is voluminous, the DFSA may allow a longer settlement period. The policy therefore combines an incentive for prompt resolution with flexibility where a rigid timetable would impair informed negotiation.

10. Transparency and Publication of Settled Outcomes

The DFSA's settlement framework deliberately combines private negotiation with public transparency. RPP 5-17-15 states that the DFSA expects to disclose publicly the outcome of any settlement of an enforcement action, including the Notice of Decision or Enforceable Undertaking. Where a settlement produces such an instrument, publication is generally made on the DFSA website together with an associated press release.

RPP 5-17-16 also recognises circumstances in which the DFSA may be ordered or required by law not to publish settlement information. The RPP gives the example of third-party court proceedings where publication could prejudice the third party's case. The mere existence of such proceedings, however, does not automatically prevent publication.

The result is a significant distinction from ordinary commercial settlement. The negotiating stage is without prejudice, but the completed regulatory outcome is ordinarily public. Settlement therefore provides certainty and efficiency without converting enforcement into a confidential private bargain.

RPP 5-17-18 and 5-17-19 also require the DFSA to consider appropriate disclosure and the treatment of privileged or sensitive information when publishing. The publication framework therefore has both transparency and information-protection dimensions.

11. Consent, Finality and the Financial Markets Tribunal

11.1 The statutory referral right

Article 90(5) gives a person a right to refer an Article 90 decision to the FMT

for review. In the ordinary contested route, these right forms part of the post Decision Notice architecture. The RPP indicates that the affected Person has 30 calendar days to refer the matter in the ordinary route.

11.2 The position in settled Decision Notices

In Ark, the Decision Notice states that ARK had Article 90(5) right but agreed, as an express condition precedent of the settlement, not to refer the matter to the FMT. The Sarwa Decision Notice contains the same structure: it records the statutory right and then records Sarwa's agreement, as a term of the settlement, not to refer the matter to the FMT. The settled outcome should therefore be described as incorporating a contractually agreed waiver of the referral right, given by the Person as a condition of settlement – not as something the settlement itself, or DFSA policy, extinguishes by operation of law.

This is a more precise legal formulation than saying that settlement automatically extinguishes the statutory right. The Regulatory Law grants the right in Article 90(5); it is the settlement agreement itself – through an express condition precedent accepted by the Person – that records the Person's agreement not to exercise it. The legal effect of the settlement should therefore be analysed through both the statutory framework, which confers the right, and the contractual terms of the settlement, which govern its non-exercise.

11.3 FMT proceedings are different from DFSA settlement

Once a matter is before the FMT, the Tribunal's own Rules of Procedure apply. Rule 49 expressly permits the FMT to facilitate settlement of proceedings, Rule 50 allows the Hearing Panel to encourage or facilitate alternative dispute resolution, and Rule 85 permits orders and decisions to which the parties consent to be drawn up and issued as orders of the FMT with the Hearing Panel's permission.

The FMT mechanism should not be described as the DFSA settlement process continuing unchanged after referral. It is a separate tribunal process. The distinction is institutional: DFSA settlement is negotiated and approved within the regulator; an FMT consent order is a tribunal disposition of proceedings already before the Tribunal.

11.4 Appeal from an FMT decision

The FMT Rules provide a permission based appeal route on a point of law. Rule 87 requires an application for permission to appeal to the FMT, and

Rules 88 to 91 govern the time and procedure. This route belongs to the contested FMT process and should not be presented as an ordinary second stage of a settled DFSA Decision Notice.

12. Scope, Eligibility and Regulatory Limits

The RPP does not establish a general published list of contraventions that are categorically ineligible for settlement. RPP 5-15-1 is broad and permits settlement discussions with a Person who is or may become subject to any form of enforcement action arising out of or during an investigation. The decisive qualification is the DFSA's discretion: under RPP 5-15-6, it will settle only where the agreed terms produce what it considers an appropriate regulatory outcome.

This means that the absence of an exclusion list should not be interpreted as a promise that every regulatory matter can be settled. Seriousness, regulatory objectives, consumer protection, deterrence, cooperation, remediation, the strength of the evidence and the wider public interest may affect whether the DFSA considers settlement appropriate.

12.1 Criminal jurisdiction

The DFSA does not have criminal jurisdiction. The settlement mechanism cannot therefore be used to dispose of a criminal charge that falls within the criminal justice system. This is a jurisdictional limitation, not a rule that all conduct involving dishonesty, fraud-related facts or market abuse is automatically incapable of regulatory settlement.

Within the DFSA's regulatory jurisdiction, the seriousness of conduct does not itself create a categorical settlement prohibition. The appropriate regulatory response remains a matter for the DFSA's case-specific discretion.

12.2 Market abuse and serious misconduct

The Ark case is instructive because the matter involved suspected market-abuse reporting failures and serious systems-and-controls deficiencies, yet the regulatory action was settled. The case therefore demonstrates that serious market-conduct matters can, in principle, be resolved through the DFSA's settlement mechanism where the DFSA considers the negotiated outcome appropriate.

13. Admissions, Agreed Facts and the Evidentiary Character of Settlement

The DFSA settlement framework should not be described as a general “neither

admit nor deny” regime. The settled Decision Notices examined in this paper record agreement between the DFSA and the Person on the relevant facts and matters relied upon and on the amount of the fine. This is a recurring feature of the current settled Decision Notices.

The RPP is particularly explicit in relation to Enforceable Undertakings. In an enforcement matter, the DFSA will generally only accept an EU that contains an admission or acknowledgement of the relevant contraventions or the DFSA’s concerns (RPP 5-15-17).

The legally safer conclusion is therefore that agreement or acknowledgement forms an important part of the DFSA’s settlement practice, but the exact formulation should be taken from the settlement instrument in the individual case. It is preferable not to state, as an absolute proposition, that every conceivable settlement must contain an admission of every allegation.

The without-prejudice protection of the negotiations remains consistent with this structure. Statements made during unsuccessful negotiations are protected; once the parties conclude a settlement, the agreed facts and regulatory outcome are embodied in the settlement instrument and may be published.

14. Payment, Compensation, Disgorgement and Costs

A financial penalty imposed under Article 90 is payable to the DFSA. If the fine remains unpaid, the DFSA may recover it as a debt due together with applicable recovery costs (Article 90(10); RPP 5-8-5 and 5-16-5).

The DFSA may agree to the terms concerning compensation to consumers as part of settlement. Such payments are directed toward persons who suffered loss and should not be treated as identical to disgorgement.

Ed Broking illustrates the distinction. The firm had paid restitution directly to two affected clients before the DFSA’s enforcement outcome. The DFSA nevertheless separately calculated disgorgement and treated the restitution as a mitigating circumstance in the penalty calculation.

Costs are likewise separate from the five-step financial-penalty methodology. The DFSA may seek costs under RPP 5-16, and an Enforceable Undertaking may contain an undertaking to pay the DFSA’s costs under RPP 5-15-18.

15. Repeat Settlement and Non-Precedential Effect

The RPP does not prescribe a numerical limit on the number of times a Person may enter into settlement in separate matters. The important rule is instead RPP 5-15-7: a settlement reached in particular circumstances should not be regarded as binding precedent for future settlement discussions.

The rule prevents a previous settlement from becoming a tariff or entitlement. A later case remains subject to its own facts, seriousness, cooperation, disciplinary history and regulatory objectives. Previous misconduct may also be relevant to penalty-setting as part of the Person's disciplinary or compliance history.

Accordingly, repeat settlement is not prohibited merely because a Person has previously settled, but neither does previous settlement create an expectation that the same financial terms or discount will be available in a later matter.

16. Settlement Distinguished from Related Mechanisms

16.1 Settlement versus Preliminary Notice / contested enforcement

The Preliminary Notice belongs to the contested Schedule 3 decision-making route. Settlement is a negotiated resolution that operates through the RPP settlement framework and the statutory written-consent exception. A Preliminary Notice may precede settlement, but it is not a mandatory precondition to settlement. Even where the written-consent exception in Schedule 3 paragraph 3(1)(c) applies, paragraph 3(2) still obliges the DFSA to issue a formal written Decision Notice recording the decision, its reasons and its effective date; only the Preliminary Notice and representations stage is dispensed with.

16.2 Settlement versus Enforceable Undertaking

Settlement describes the resolution process. An EU is a statutory instrument that may be used to implement the agreed regulatory outcome. An EU may also be offered and accepted outside a conventional settlement of a financial penalty.

16.3 DFSA settlement versus FMT consent order

A DFSA settlement is a regulatory resolution approved within the DFSA. An FMT consent order is made by the Tribunal after proceedings have reached the FMT. The latter carries the institutional character of a tribunal order and is governed by the FMT Rules of Procedure.

17. Case Studies

17.1 Ark Capital Management (Dubai) Limited – 2 February 2026

ARK, a DFSA-authorised firm, settled enforcement action concerning failures relating to market-abuse reporting, systems and controls, and notification of

a proposed change in control. The Decision Notice states that ARK agreed to settle and that the DFSA reduced the fine by 30%, from USD 720,000 to USD 504,000.

The penalty calculation provides a particularly clear illustration of the settlement methodology. The DFSA did not impose disgorgement because it found no evidence of profit or loss avoided. The Step 2 seriousness figure was USD 720,000, no Step 3 adjustment was made, and the Step 4 figure remained USD 720,000 because the DFSA considered it sufficiently deterrent. The 30% settlement discount then reduced the amount to USD 504,000.

Procedurally, the Decision Notice records that the decision was made by a Settlement Decision Maker and that the Notice was given under paragraph 3(2) of Schedule 3. The Notice also records ARK's agreement not to refer the matter to the FMT. The case therefore demonstrates the operation of both the settlement decision-maker structure and the written-consent architecture.

17.2 Ed Broking (MENA) Limited – 22 January 2026

Ed Broking concerned misleading and deceptive conduct in reinsurance broking, including discrepancies in premium figures, mischaracterised deductions and altered documentation. The firm had itself reported the conduct, commissioned an external forensic investigation and paid restitution to two affected clients.

The financial calculation demonstrates the distinction between restitution, disgorgement and settlement discount. Disgorgement was assessed at USD 175,343, including interest. The Step 2 seriousness figure was USD 571,087 and was reduced at Step 3 by 30% to USD 399,761 in recognition of self-reporting, cooperation and restitution. No Step 4 deterrence increase was made. The Step 5 settlement discount then reduced the USD 399,761 penalty component by 30% to USD 279,833. Adding the undiscounted disgorgement produced the final amount of USD 455,176.

The case is particularly useful because it shows why a formula based simply on “30% off the total fine” would be legally and mathematically inaccurate.

17.3 Sarwa Digital Wealth Limited – 16 May 2024

Sarwa concerned an offer of securities to the public without the required approved prospectus and misleading and deceptive conduct in relation to financial information. Sarwa returned investor commitments in full before shares were transferred.

The DFSA assessed disgorgement at nil. The Step 2 seriousness figure was USD 390,000, calculated by reference to USD 2.6 million in commitments and a 15% seriousness factor. A 30% Step 3 mitigation reduced the figure to USD 273,000, and the 30% settlement discount reduced the final fine to USD 191,100.

The procedural section of the Decision Notice records that the decision was made by a Settlement Decision Maker and that the Notice was given under paragraph 3(2) of Schedule 3. Sarwa retained a statutory Article 90(5) right on the face of the provision but agreed, as part of settlement, not to refer the matter to the FMT. The case therefore provides direct evidence of the consent-based structure described in this paper.

17.4 What the cases collectively demonstrate

Feature	Ark	Ed Broking	Sarwa
Settlement discount	30%	30%	30%
Disgorgement	Nil	USD 175,343	Nil
Key mitigation	No Step 3 adjustment	Self-reporting, cooperation and restitution	Prompt full refund and related regulatory action
Settlement Decision Maker	Yes	Yes	Yes
Schedule 3 consent notice	Yes	Yes	Yes
FMT referral position	Agreed not to refer	Agreed not to refer	Agreed not to refer

The above cases demonstrate consistent architecture while showing that the substantive penalty analysis remains case-specific. Settlement does not eliminate the DFSA's ordinary penalty-setting principles; it operates as the final adjustment after the substantive regulatory response has been assessed.

18. Evaluation of the DFSA Model

18.1 Strengths

The first strength is procedural flexibility. Settlement can arise before or

after formal enforcement action, allowing the DFSA to resolve a matter when the evidence and regulatory objectives make agreement appropriate.

The second is institutional separation. The case team negotiates, while a separate senior officer approves the outcome. The requirement that the Settlement Decision Maker not have been directly involved in establishing the evidence provides a clear conflict-management safeguard.

The third is a transparent financial incentive. The 30% settlement discount is easy to understand and is applied at a defined stage of the penalty methodology. Because disgorgement is excluded, the incentive does not reward a Person by allowing it to retain an economic benefit derived from the contravention.

The fourth is transparency. The general publication policy prevents settlement from becoming an opaque private resolution and allows the market to understand the DFSA's regulatory response.

18.2 Regulatory trade-offs

The principal trade-off is between certainty and contestability. A Person that settles accepts the negotiated regulatory outcome and, in the recent Decision Notices examined, agrees not to refer the matter to the FMT. In exchange, the Person receives a more certain outcome, avoids the cost and duration of contested proceedings and may obtain the settlement discount.

A second trade-off concerns public reputation. Settlement avoids the uncertainty of prolonged litigation, but it does not ordinarily avoid publication. The mechanism therefore offers procedural efficiency rather than confidentiality. A third trade-off concerns precedent. The RPP deliberately prevents individual settlements from becoming binding precedent. This preserves flexibility but also means that settlement outcomes cannot be treated as a tariff or guaranteed benchmark for future cases.

18.3 Overall assessment

The DFSA model is best understood as negotiated enforcement rather than private dispute resolution. The regulator retains substantive control over the appropriateness of the outcome, while the Person obtains a defined procedural and financial incentive to agree. The framework is consequently capable of advancing enforcement objectives without converting regulatory sanctions into purely consensual commercial settlements.

19. Conclusion

The DFSA settlement mechanism is a structured component of its enforcement framework, grounded in statutory powers under the DIFC Regulatory Law 2004 and operationalised through the RPP Sourcebook. Its legal character cannot be understood simply by comparing it with a commercial settlement agreement. It is a negotiated exercise of regulatory enforcement powers in which the DFSA retains discretion to determine whether the agreed outcome is appropriate.

The relationship with the Preliminary Notice is central. The Preliminary Notice belongs to the ordinary contested Schedule 3 process. Settlement may arise before or after the Preliminary Notice and is governed by a different procedural architecture. Schedule 3 paragraph 3(1)(c) provides the statutory written-consent exception, while RPP 5-15-9 confirms that the ordinary formal decision-making process does not generally apply to a settled outcome. That exception, however, is confined to the representations stage; paragraph 3(2) of Schedule 3 continues to apply and requires the DFSA to give the person a formal written Decision Notice stating the decision, the reasons for it and the date it takes effect.

The Settlement Decision Maker provides an internal institutional safeguard by separating negotiation from approval and requiring the approving officer not to have been directly involved in establishing the evidence. The principal settlement instruments are an agreed Notice of Decision and an Enforceable Undertaking, which may be used separately or together.

Financially, the DFSA's five-step methodology is essential to understanding the settlement discount. Disgorgement is distinct from the financial penalty and is not discounted. The seriousness assessment, mitigation and deterrence adjustments occur before the settlement discount. The standard discount is 30% where agreement is reached within the specified period, ordinarily 28 days.

The recent Ark, Ed Broking and Sarwa Decision Notices demonstrate that the written framework is reflected in current enforcement practice. They also show why the settlement amount cannot be analysed as a simple discounted fine: disgorgement, mitigation, restitution and settlement discount operate at different stages and for different regulatory purposes.

The strongest overall conclusion is therefore that the DFSA settlement mechanism represents negotiated regulatory enforcement with statutory consent, internal institutional safeguards, a defined financial incentive and public accountability. Its design seeks to achieve earlier and more certain enforcement outcomes without sacrificing the DFSA's ability to impose

proportionate sanctions, require remediation or publish the regulatory findings. For comparative regulatory research, it is this integrated architecture – rather than the 30% discount in isolation – that makes the DFSA model significant.

20. Primary Authorities and Research Sources

20.1 Primary legal and regulatory sources

- DIFC Law No. 1 of 2004, Regulatory Law, as amended – particularly Articles 78, 80, 89, 90, 116 and Schedule 3.
- DFSA, Regulatory Policy and Process Sourcebook, April 2022 Edition – particularly RPP 1-2, 5-15, 5-16, 5-17, 6-4 to 6-8 and Chapter 7.
- DFSA, RPP Sourcebook, Appendix 1 – February 2020 amendment material, including the enforcement process and settlement-publicity provisions.
- DFSA, Consultation Paper No. 149, Fixed Penalty Notices, 18 April 2023 – used only for comparison with the separate fixed-penalty concept.
- Financial Markets Tribunal Rules of Procedure, as amended with effect from 2 May 2024.

20.2 DFSA Decision Notices examined

- Ark Capital Management (Dubai) Limited, Decision Notice dated 2 February 2026. Ed Broking (MENA) Limited, Decision Notice dated 22 January 2026.
- Sarwa Digital Wealth Limited, Decision Notice dated 16 May 2024.
- La Tresorerie Limited, Decision Notice / DFSA enforcement publication – used as a supporting example of settlement without the standard settlement discount.

20.3 Secondary material

- Pinsent Masons / Out-Law, “Settlement agreements in the DIFC”, 19 August 2021 – used only for contextual distinction between general DIFC commercial settlement and the DFSA’s specialised regulatory settlement framework.

20.4 Verification note

The legal propositions in the main body are stated by reference to the

CHAPTER 1 - A DEEP DIVE INTO THE SETTLEMENT PROCEEDINGS UNDER THE DFSA REGIME

relevant statutory provision, RPP paragraph or Decision Notice rather than by reproducing lengthy source extracts. The primary DFSA materials were cross-checked against the official DFSA publication record and current public enforcement material available at the date of research. The RPP itself is guidance and should not be treated as creating an independent statutory right to settlement or to a settlement discount.

CHAPTER-2

Securities & Futures Commission (SFC) - Hong Kong¹

The Guidance Note on Cooperation with the SFC explains how Hong Kong's Securities and Futures Commission (SFC) rewards people and companies that help with investigations. The Settlement Mechanism.

Types of proceedings

There are three types of proceedings in SFC, Hong Kong:

Proceeding Type	Statutory Basis	What It Covers
Disciplinary	s.201 SFO / s.53ZSV(2) AMLO	SFC-licensed or registered persons: misconduct or "fit and proper" concerns under Part IX SFO / Part 5B AMLO.
Civil Court	s.213 & s.214 SFO	s.214: director/officer unfitness ("Carecraft"). s.213: general SFO contraventions — SFC seeks remedial or protective orders.
Market Misconduct Tribunal (MMT)	Part XIII & Part XIVA SFO	The six market misconduct offences, and breaches of corporate disclosure obligations.

Note: Criminal cases are expressly excluded from Settlements. The Department of Justice has unfettered discretion over criminal prosecutions.

1. Referenced from Securities & Futures Ordinance (Cap. 571)- Guidance Note on Cooperation with the SFC (1st June, 2023) <https://www.sfc.hk/en/Rules-and-standards/Codes-and-guidelines/Guidelines> and <https://www.sfc.hk/-/media/EN/assets/components/codes/files-current/web/guidelines/guidance-note-on-cooperation-with-the-sfc/230524--Guidance-Note-on-Cooperation-with-SFC-Eng.pdf?rev=05c64623bfc948e09597fbbce79044ba> and <https://conventuslaw.com/report/hong-kong-sfcs-new-guidance-note-redefines/>

Question 1 – Jurisdiction(s) Allowing the Settlement Mechanism

Route	Statutory Basis	Decision-Maker
Disciplinary proceedings	s.201 SFO / s.53ZSV(2) AMLO	The SFC (Commission itself)
Civil court – director unfitness	s.214 SFO (“Carecraft” procedure)	The Court (based on agreed Schedule)
Civil court – general contraventions	s.213 SFO	The Court (based on agreed facts/orders)
Market Misconduct Tribunal	Part XIII / Part XIVA SFO	The Tribunal

Question 2 – Types of Offences Allowed Under the Settlement Mechanism

Route	Statutory Basis	Description
Disciplinary	Part IX SFO, s.193	“Misconduct”: a contravention of the SFO or of licence/registration conditions, or conduct the SFC considers prejudicial to the investing public or public interest (s.193(1)). Applies to SFC-licensed/registered persons, and equivalent breaches under Part 5B AMLO.
s.214 SFO – “Carecraft”	s.214 SFO	Unfitness of a director or officer to be involved in managing a listed corporation – typically resolved with a disqualification order.
s.213 SFO – general	s.213 SFO	Contraventions of the SFO generally, where the SFC seeks disgorgement, restoration, cold-shoulder, cease-and-desist or costs orders.
MMT	Part XIII, ss.270-278	Six defined market misconduct offences (see below) plus breach of the corporate inside-information disclosure duty under Part XIVA, s.307B.

Note: Criminal offences are not covered anywhere in the settlement mechanism (para 1.2).

The Six Market Misconduct Offences – Part XIII SFO

Each is a distinct offence the MMT can settle by consent order (Schedule 9) and can be settled.

Section	Offence	Definition
s.270	Insider dealing	A connected person dealing in listed securities (or their derivatives) while knowingly possessing inside information – or counselling/procuring, or disclosing the information to, another to do so.
s.274	False trading	Doing anything intended, or reckless as to whether it is likely, to create a false or misleading appearance of active trading, or of the market or price, for securities or futures contracts.
s.275	Price rigging	A wash sale/purchase with no real change of beneficial ownership, or a fictitious/artificial transaction, that maintains, inflates, depresses or stabilises a security's price.
s.276	Disclosure of information about prohibited transactions	Disclosing that a price will be, or is likely to be, moved because of a prohibited transaction, where the discloser (or an associate) carried out that transaction or stands to benefit from the disclosure.
s.277	Disclosure of false or misleading information inducing transactions	Disclosing information likely to induce a transaction or move a price, knowing it is false/misleading as to a material fact – or reckless or negligent as to whether it is.
s.278	Stock market manipulation	Two or more transactions in a corporation's securities that move or hold its price, done with the intention of inducing another person to trade (or refrain from trading) on the strength of that movement.

Note: Related, outside Part XIII: Part XIVA, s.307B requires listed corporations to disclose inside information to the public “as soon as

reasonably practicable” – breach of this duty is settled through the same MMT consent-order route.

Question 3 – How Long Is the Settlement Process?

No fixed statutory duration in either source – but both describe a wide window during which settlement stays available.

Route	Window	Key Detail
Disciplinary route	Window stays open the entire way	“At any time from detection of the failings ... up to the issuance of the Decision Notice” (para 6.4).
Civil court / MMT route	Any point before determination	In a number of past cases, proceedings have been dealt with on a summary basis without a trial or the calling of witnesses, subject to the court or MMT’s approval (para 7.1). In general, the earlier cooperation is provided, the greater the potential to save time and costs (para 7.1).

Disciplinary Route – Process Sequence

Stage	Description
1. Detection	Detection of failing / breach
2. Investigation	SFC investigation begins
3. NPDA issued	Notice of Proposed Disciplinary Action issued
4. Representations due	Party’s written representations are due
5. Decision Notice	SFC issues the Decision Notice

Question 4 – The Discount Mechanism (Disciplinary Route)

Non-statutory – set out only in the SFC’s Guidance Note on Cooperation, not in the SFO itself - this operates similar to the summary settlement mechanism of SEBI.

Stage	Discount (up to)	Window
Stage 1	30%	From detection of the misconduct up to issuance of the NPDA - If a settlement agreement is reached before the formal issuance of a Notice of Proposed Disciplinary Action (NPDA)
Stage 2	20%	If settled after the NPDA, before written representations are due
Stage 3	10%	If settled from the deadline for written representations up to the issuance of a decision notice. [1]

Note: *Beyond the caps: further reductions in sanctions may be possible in cases of “exceptional and substantial cooperation” (para 6.9). Civil court / MMT route: no fixed table – the SFC may propose a reduced sanction (e.g. a shorter disqualification) with mitigation submissions, negotiated case-by-case (para 7.7).*

Question 5 – Broad Settlement Process

The Disciplinary Process Route is as follows:

1. Investigation:

The regulator investigates potential misconduct, breaches of rules, or fitness and properness concerns.

2. Cooperation and Settlement Discussions:

Parties can engage in “without prejudice” discussions to explore an early resolution and secure a fine reduction.

3. Formal Notice (NPDA):

If no early settlement is reached, a Notice of Proposed Disciplinary Action is issued, setting out the case and proposed sanctions.

4. Representations and Decision:

The party under review provides written or oral representations, followed by a final decision notice or a finalized settlement agreement carrying an agreed-upon, discounted sanction.

Part I: Disciplinary Route

Step	Action	Detail
1	SFC investigation	Preliminary findings on misconduct or fitness concerns.
2	Approach at any stage	Party may approach the SFC any time from detection up to the Decision Notice (para 6.4).
3	“Without prejudice” talks	Discussions conducted without prejudice by default.
4	Cooperation demonstrated	Self-reporting, third-party review, directors' undertakings, etc. (para 6.3).
5	Agreement + Decision Notice	SFC enters an Agreement; Decision Notice reflects the tiered discount.

Part II: Civil Court & MMT Process

Step	s.214 – “Carecraft” Procedure	s.213 SFO & MMT Proceedings
1	Party agrees to adopt the Carecraft procedure.	Party signs a Statement of Agreed Facts (core undisputed facts).
2	A Carecraft Schedule (agreed facts + agreed disqualification period) is jointly prepared.	Party and SFC agree proposed orders: disgorgement, restoration, disqualification, cold-shoulder, cease-and-desist, costs.
3	Submitted to the court, which decides based on the Schedule alone – no full trial.	Where necessary, an affidavit/affirmation confirms agreement to the facts.
4	Cooperation specifics can be recorded in an “Agreed Mitigating Factors” section.	Submitted for court/MMT approval – neither is bound to accept it (para 7.8).

Single vs. Multiple Settlements

Partial settlement is expressly permitted (para 7.5): a party can agree most facts/orders while disputing a narrower point (e.g. sanction duration) – narrowing, not eliminating, the matters for a hearing. There is no numeric cap on the number of settlements in either source. The Guidance Note stresses each case is judged independently and creates “no legitimate expectations” of a right to settle (paras 6.5, 6.10).

Question 6 – Settlement Committee: Members & Qualification Criteria

No dedicated “settlement committee” is created or referenced in either source. Decisions rest with existing bodies:

Route	Decision-Making Body	Authority / Basis
Disciplinary route	The SFC	Decision to enter an Agreement, and to what extent, rests with the Commission itself (paras 6.1-6.2) – no separate panel is named.
s.213 / s.214 route	The Court	Final decision-maker for Carecraft and s.213 settlements – not bound to accept the parties' agreed facts or proposed orders (para 7.8).
MMT route	The Tribunal	Final decision-maker for Part XIII/XIVA settlements – likewise retains full discretion over any agreed outcome (para 7.8).

Note: *Because no settlement committee exists, there are no appointment or qualification criteria to report here. (The MMT's own membership rules – chairman appointed by the Chief Executive on the Chief Justice's recommendation, ordinary members appointed by the Chief Executive – come from Schedule 9 of the SFO, not this Guidance Note.)*

Question 7 – Who Is Authorised to Give Leeway on the Penalty?

Route	Who Decides	Considerations
Disciplinary matters	The SFC itself	Weighs the cooperation-assessment factors (para 4.2): • Timeliness of the cooperation

Route	Who Decides	Considerations
		• Quality, extent & substance of assistance • Nature & seriousness of the breach • The party's general conduct
Civil court / MMT matters	The SFC proposes; the Court/MMT decides	SFC may propose a reduced sanction with mitigation submissions (para 7.7), but final authority rests with the court or MMT, which independently decide whether to approve it (para 7.8).

Note: *Cuts both ways: uncooperative conduct (withholding information, evasive conduct, deliberately prolonging an investigation – paras 4.3-4.4) can be weighed against any leeway. Privilege is protected: a bona fide refusal to waive legal professional privilege is expressly not held against a party (para 5.1).*

Question 8 – Are All Settlements by Way of Order?

No – the legal form of the outcome depends on which route resolved it.

Route	Form of Outcome
Disciplinary (s.201 SFO / s.53ZSV(2) AMLO)	A Decision Notice issued by the SFC – an administrative decision, not a court/tribunal order.
s.214 SFO (“Carecraft”)	A court order (e.g. disqualification order), made by the court based on the Carecraft Schedule.
s.213 SFO / MMT s.213 SFO / MMT	A court or MMT order – disgorgement, restoration, disqualification, cold-shoulder, cease-and-desist, costs – based on the Statement of Agreed Facts and proposed orders.

Route	Form of Outcome
Disciplinary (s.201 SFO / s.53ZSV(2) AMLO)	A Decision Notice issued by the SFC – an administrative decision, not a court/tribunal order.

Route	Form of Outcome
s.214 SFO ("Carecraft")	A court order (e.g. disqualification order), made by the court based on the Carecraft Schedule.
s.213 SFO / MMT s.213 SFO / MMT	A court or MMT order — disgorgement, restoration, disqualification, cold-shoulder, cease-and-desist, costs — based on the Statement of Agreed Facts and proposed orders.

Note: *Neither the court nor the MMT is bound to accept what the parties propose (para 7.8) — both retain final approval authority even after agreement is reached.*

Question 9 — Publication Rules

Matter Type	Disclosure Requirements
Disciplinary matters (para 8.2)	Discloses original vs. reduced sanction during resolution discussions.
	States in the Agreement itself that cooperation was given and taken into account.
	Names the cooperation, with a general description, in the press release and the Decision Notice.
s.213 / s.214 / MMT matters (para 8.3)	Informs the party of the original proposed order during resolution discussions, where a reduced sanction is being proposed for approval.
	At the conclusion of the case, states in the press release that the party cooperated, with a general description.

Note: *No private or "no admission of liability" resolutions (para 6.11): as a general principle, the SFC considers it not in the public interest to resolve disciplinary matters privately or on a "no admission of liability" basis, citing public accountability and credible deterrence — and explicitly notes that class-action liability concerns motivating such terms in some other markets are not relevant in Hong Kong. Offers on those terms are therefore unlikely to be accepted.*

1. Who Settles – Regulator, Quasi-Judicial, or Fully External – Member Profile

Route	Decision-Maker	Nature	Member Profile
Disciplinary	The SFC (Commission itself)	Fully internal – the regulator	Decision to enter an Agreement rests with the Commission itself; no separate panel or committee is named in the Guidance Note (paras 6.1-6.2).
s.213 / s.214 SFO	The Court	Fully external – judicial	An ordinary civil court judge (or judges); wholly outside the SFC, independently deciding whether to accept the parties' proposed facts/orders (para 7.8).
MMT	The Tribunal	Quasi-judicial – external, standing body	Chairman appointed by the Chief Executive on the recommendation of the Chief Justice; ordinary members appointed by the Chief Executive. (This composition detail comes from Schedule 9 of the SFO itself, not from the Guidance Note, which does not restate it.)

2. Settlement vs. Summary Settlement

Concept	What it is	Basis
Settlement	A negotiated resolution between the party and the SFC – an Agreement (disciplinary), a Carecraft Schedule (s.214), or a Statement of Agreed Facts plus proposed orders (s.213/MMT).	s.201 SFO / s.53ZSV(2) AMLO (disciplinary); s.214 Carecraft Schedule; s.213/MMT Statement of Agreed Facts (paras 6.1, 7.2, 7.4).
Summary disposal (“summary basis”)	The court or MMT disposing of the case without a full trial or the calling of witnesses, using the settlement materials the parties submitted.	Subject to the court or MMT's approval (para 7.1) – a frequent outcome in past cases, but not automatic or guaranteed.

Note: *Settlement and summary disposal are related but distinct: a settlement is the parties' agreement; summary disposal is the court/MMT's separate procedural decision to resolve the matter on that agreement without a trial. One does not compel the other.*

3. Length of the Settlement Process

There is no fixed statutory duration in either source. The disciplinary route stays open “at any time from detection of the failings ... up to the issuance of the Decision Notice” (para 6.4). The civil court/MMT route stays open at any point before determination, with earlier cooperation generally saving more time and cost (para 7.1).

4. Which Matters are “Settlement-Worthy”, and Which are Not

Settlement-Worthy	Not Settlement-Worthy
- Disciplinary misconduct (Part IX SFO / Part 5B AMLO) - s.213 SFO general contraventions	Criminal offences — expressly excluded. The Department of Justice has unfettered discretion over criminal prosecutions; this Guidance Note and settlement mechanism do not operate there (para 1.2).
s.214 SFO director/officer unfitness (“Carecraft”)	
The six MMT market misconduct offences (ss.270, 274-278)	
Breach of the s.307B corporate disclosure duty	
(Part XIVA)	

5. Quantum and Calculation

Context	Basis for Quantum	Source
Disciplinary sanction discount	Tiered percentage reduction of the sanction otherwise assessed: up to 30% (Stage 1), 20% (Stage 2), 10% (Stage 3). Further reductions possible for “exceptional and substantial cooperation” (para 6.9).	paras 6.7-6.9

s.213 / MMT proposed orders	Disgorgement is calculated as the amount gained or loss avoided by the party from the breaches or failings. Restoration returns victims to their initial position, at times through an independent administrator appointed to make the necessary arrangements.	para 7.4
s.213 / MMT sanction reduction	No fixed table or percentage – the SFC may propose a reduced sanction (e.g. a shorter disqualification) together with mitigation submissions for the court/MMT's approval, negotiated case-by-case.	para 7.7

6. Any Appellate Mechanism – Compulsion to Accept?

Point	Position
Right to have a settlement accepted	None. The Guidance Note's principles are guiding only – they confer no right and create no legitimate expectation that a matter will be resolved under an Agreement, that the party will be kept informed of an investigation's progress, or that it will be told the SFC's preliminary assessment before an NPDA is issued (para 6.10).
Court / MMT compulsion to accept agreed terms	None. Neither the court nor the MMT is bound to accept the orders or facts the parties propose, even where an agreement has been reached; both retain full discretion to reject or vary them (para 7.8).
Formal appeal against a settlement decision	Not addressed. No appellate or review procedure against a settlement outcome is set out in the Guidance Note, and the SFO extract provided does not include appeal provisions – this is a gap in the source materials reviewed, not a confirmed absence of any appeal right in the SFO more broadly.

7. Is the Order Published – and How?

Press release and Decision Notice disclosures under paras 8.2-8.3. One further, distinct publication- adjacent mechanism appears in the Guidance Note:

Mechanism	Nature	Source
Cooperation letter to another regulator	Not a public disclosure. On the request of a party that has been cooperative, the SFC may in appropriate circumstances issue a letter to another regulator or law enforcement agency describing the cooperation provided. It is a private, inter-regulator communication – not a recommendation on sanctions or actions, and not published to the market.	para 7.9

8. Are Third Parties Allowed to Represent or Pay?

Third-Party Role	Detail
Third-party reviewer (disciplinary)	In firm cases, a reviewer may be jointly appointed with the SFC to conduct a fact-finding or internal-control review. The firm generally bears the cost of engaging the reviewer, though the SFC contributes a nominal amount so it is a contractual party with resulting rights. The firm is not generally entitled to review or amend the reviewer's report before it goes to the SFC. (Para 6.3)
Directors' undertakings	A firm's board of directors, collectively and individually, may give undertakings to the SFC to address regulatory concerns –e.g. to remedy identified deficiencies within a set time.(Para 6.3)
Independent administrator (s.213 / MMT)	An independent administrator may be appointed to make the necessary arrangements for restoring victims to their initial position, as part of proposed orders. (para 7.4)
Legal / third-party representation and payment	Not addressed. The Guidance Note and SFO extract provided do not state whether external counsel or other representatives may formally conduct settlement negotiations on a party's behalf, or whether a third party (e.g. a parent company or insurer) may pay a sanction on the regulated person's behalf.

CHAPTER-3

Luxembourg (CSSF)¹

In Luxembourg, the CSSF handles regulatory enforcement, which can result in administrative settlements, corrective measures, or multi-million-euro fines for non-compliance (such as Anti-Money Laundering violations).

Who settles - regulator independently or quasi or fully external - member profile

No comparable settlement decision-maker because there is no comparable general settlement mechanism. (CSSF Law of 5 April 1993, Art. 63 et seq)

- There is CSSF Executive Board who looks into policy, budget, financials and general matters.
- Since there is no general settlement mechanism, the only recourse is appeal to the Administrative Court.

Settlement vs summary settlement

- No general negotiated settlement for CSSF enforcement.
- No CSSF equivalent of a settlement discount.

The Settlement process:

The process runs as follows:

1. Risk-based selection.

- Offsite supervisory teams continuously score supervised entities into four risk bands (Low/Moderate/High/Very High) from mandatory periodic reporting;
- onsite inspection, “tailor-made” inspections by a dedicated ad hoc team.

2. Onsite inspection.

A three-week advance “letter of announcement” requesting documents, a “kick-off meeting” scoping the mission, then the onsite work itself.

1. Material referenced from <https://www.cssf.lu/en/>

3. Fact validation meeting.

Adversarial exchange - the entity may formulate observations, which the CSSF must consider, in application of the principle of adversarial debate necessary to protect rights of defence.

4. Triage.

CSSF internal hierarchy chooses among a letter of observation, a letter of injunction, or reserved for the more serious “findings” the opening of a formal administrative sanction procedure.

5. Sanction.

CSSF determines “the type and amount of the administrative sanction,” taking into account all legal and factual elements from the contradictory procedure, gravity and duration of the breach, intentionality, gains derived from the infringement, and (where relevant) remedial steps already taken by the entity.

6. Appeal.

Every administrative decision which is prudential measure or sanction, is subject to appeal to the Luxembourg administrative courts.

7. Publication.

Occurs only once all legal remedies are exhausted, which the CSSF itself notes is why publication can trail the underlying sanction decision by several months.

Length of the settlement process

Luxembourg follows traditional administrative sanction model with no general negotiated settlement mechanism, only right to appeal before the court.

Which violations are settlement worthy, which are not

- CSSF does not have a general negotiated enforcement settlement mechanism. CSSF has administrative sanctioning powers for a wide range of regulatory misconduct such as market abuse, AML compliance failures, serious regulatory breaches, transaction reporting failure.
- Criminal offences are not settleable by CSSF.

Quantum and calculation

- There is no discount mechanism
- No negotiated reduction of penalty through settlement

Order Published or not. If yes, how - Press release or by way of an order?

- Supervision / initial investigation is generally confidential.
- Administrative proceedings are also generally kept as confidential until the decision is taken subject to legal exceptions.
- Administrative sanction decisions are generally public and decisions are also published on their official website after notifying the person. Such notice would include nature of infringement, sanction and the identity of the person.
- There is a provision under the CSSF regulations, where in exceptional circumstances , the identity may be withheld if publication would be disproportionate or could jeopardise financial stability or an ongoing investigation.

Third parties allowed to represent, pay?

- A person involved in a CSSF regulatory matter can be represented by a third party, such as a lawyer or authorised representative.
- However, a representatives can neither become a respondent nor can settle an administrative fine on behalf of the alleged person.

CHAPTER-4

Settlement Regulations in the UK (FCA)¹

The UK Financial Conduct Authority (FCA) has a settlement is a formal regulatory agreement where a firm or individual accepts the FCA's proposed findings and disciplinary sanctions rather than contesting them through contested proceedings.

- Unlike a confidential out-of-court commercial settlement, an FCA settlement is a formal regulatory decision that typically results in a public final or supervisory notice.
- The UK FCA Settlement Discount Scheme: Under the FCA's Decision Procedure and Penalties manual (DEPP), settling early in an investigation can significantly reduce financial penalties.
- Standard Discounts:
 - A 30% discount is typically applied if a settlement is reached at the early stage when the FCA first communicates its assessment of the penalty.
 - The discount drops to 20% or 10% as the case progresses closer to formal representations or decision notices.
- Public Interest & Consumer Redress: The FCA only enters a settlement if it aligns with its statutory objectives, ensures clear deterrent messaging, and secures appropriate redress or compensation for disadvantaged consumers.

Key Features of the FCA Settlement Mechanism

The key features of the UK FCA Settlement mechanism are as follows:

Who settles - regulator independently or quasi or fully external - member profile

The FCA uses two 'Settlement Decision Makers': (DEPP 5.1.1)

- one at least Director of Division level;

1. Referenced from <https://handbook.fca.org.uk/handbook/enfg2/enfg2s9>

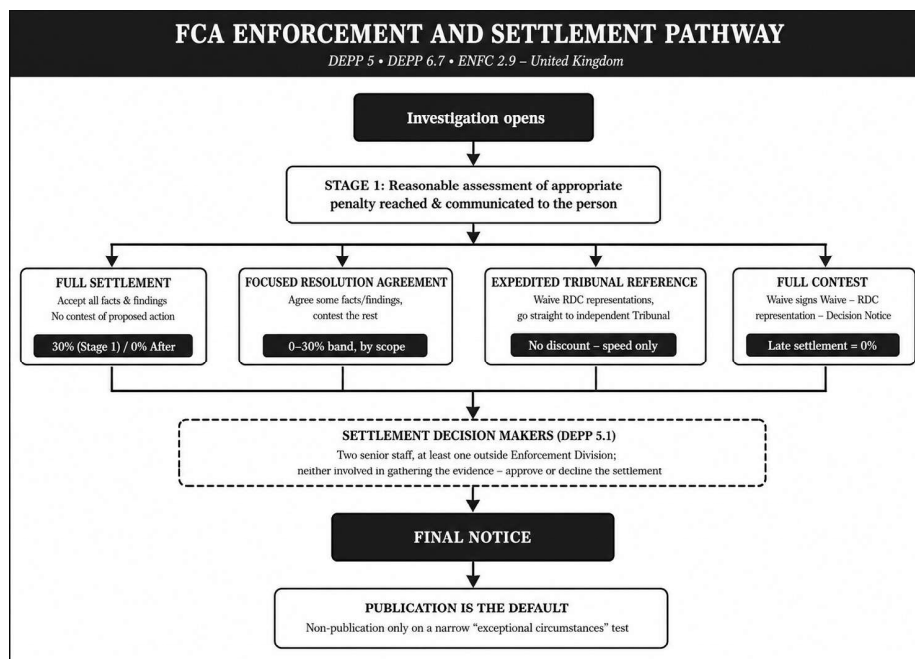
CHAPTER 4 - SETTLEMENT REGULATIONS IN THE UK (FCA)

- one at least Head of Department level;
- at least one outside Enforcement and Market Oversight;
- neither directly involved in establishing the evidence.

Additionally, there is an upper tribunal, a person may approach.

Settlement vs summary settlement

- FCA expressly resolves many enforcement cases by settlement and encourages early settlement. Also there is an ordinary settlement mechanism where FCA and the person concerned can agree the penalty and settlement terms.
- The FCA has Focused Resolution Agreement rather than a summary settlement which are a form of partial/streamlined resolution rather than a separate summary settlement track.



- A full settlement agreement where the person accepts the FCA's findings on all issues and does not contest the proposed action;
- A Focused Resolution Agreement ("FRA") where the person agrees some but not all facts, breach findings, or sanction terms, and contests the remainder through the ordinary contested process; or

- An expedited reference to the Upper Tribunal, introduced in the same March 2017 reforms as the FRA, this lets a person who wishes to fully contest the action skip the FCA's internal Regulatory Decisions Committee ("RDC") stage and go straight to the Tribunal, by agreeing to waive the right to make representations to the RDC in exchange for a faster route to independent adjudication. This is not a settlement mechanism in the ordinary sense, but it belongs in the same family of "structured exits from the standard enforcement timeline".

Length of the settlement process

Since UK follows formal settlement framework that encourages early resolution and can be used multiple times.

- No statutory time limit has been prescribed.
- Early settlement can be concluded within weeks to few months.
- Stage 1 window normally provides 28 days for parties to settle.

Which violations are settlement worthy, which are not

- FCA investigates serious misconduct, including insider dealing and market manipulation, can in practice be settled on the regulatory side.
- It investigates both regulatory breaches and criminal offences, with possible outcomes including prosecution, imprisonment, redress, financial penalties, bans and public censures as per their FCA Enforcement data 2025/26 published on 09/07/2026.
- Misconducts where settlement would be contrary to public interest and market integrity such as market wide fraud, obstruction in investigation, repetitive serious misconducts, fabrication of evidence may not be settleable ordinarily and may be referred to criminal investigation.

Quantum and calculation

- The discount, whichever scheme applies, is calculated against the financial penalty and any suspension/restriction period, but not against disgorgement of profit or avoided loss.
- The FCA first determines the penalty before applying the settlement discount, A. The settlement discount is then applied to A to arrive at the amount actually payable, B.

$$B = A \times (1-D)$$

- For a normal Stage 1 settlement, the current standard discount is 30%.

Therefore:-

$$B = A \times 70\%$$

- The percentage reduction will not apply to the part of the penalty where, a proposed financial penalty specifically equates to the disgorgement of profit accrued or loss avoided.

Order Published or not. If yes, how - PR or order

- FCA settlement that results in a Final Notice or a Supervisory Notice will be publicised unless there are exceptional circumstances.
- FCA will generally expect not to remove statement/notices for less than 6 years, following periodic reviewal.
- If FCA staff consider that it is appropriate to publish information about the matter to which a warning notice falling within section 391(1ZB) of the Act relates and is given by the settlement decision makers, they will make a recommendation to the settlement decision makers that such information should be published.
- The settlement decision makers will then consider whether it is appropriate in all the circumstances to publish information about the matter to which the warning notice falling within section 391(1ZB) of the Act relates. The FCA's policy on publishing such information is set out in ENFG 4.
- If the settlement decision makers propose that the FCA should publish information about the matter to which a warning notice falling within section 391(1ZB) of the Act relates:
 - (1) the settlement decision makers will settle the wording of the statement it proposes the FCA should publish (warning notice statement);
 - (2) the FCA staff will make appropriate arrangements for the warning notice statement that the settlement decisions makers propose the FCA should publish to be given to the persons to whom the warning notice was given or copied;
 - (3) the proposed warning notice statement will specify the time allowed for the recipient to respond in writing to the settlement decision makers. This will normally be 14 days;

- (4) the recipient of a proposed warning notice statement may request the settlement decision makers to grant an extension of the time allowed for its response. Such a request must normally be made within seven days of the proposed warning notice statement being given; and
 - (5) the settlement decision makers will not normally grant a request by a person to whom the warning notice statement was given to make their response in person.
- If no response to the proposed warning notice statement is received, the FCA will make appropriate arrangements to publish the warning notice statement.
 - If the settlement decision makers receive a response from the person to whom the proposed warning notice statement was given, the settlement decision makers will consider their response and decide whether it is appropriate in all the circumstances to publish information about the matter to which the warning notice relates.
 - If the settlement decision makers decide that the FCA should publish a warning notice statement:
 - (1) the settlement decision makers will notify the relevant parties (including the relevant FCA staff) in writing of that decision;
 - (2) the settlement decision makers will settle the wording of the warning notice statement; and
 - (3) the FCA will make appropriate arrangements for the warning notice statement to be published.
 - If the settlement decision makers decide that the FCA should not publish a warning notice statement they will notify the relevant parties (including the relevant FCA staff) in writing of that decision.

Third parties allowed to represent, pay?

- FCA settlement process can involve lawyers and other professional advisers acting for the person under investigation.
- FCA's rules expressly contemplate settlement discussions between FCA staff and "the person concerned", and the settlement terms are put in writing and agreed by FCA staff and that person.
- However, FCA's GEN 6.1 says that financial penalties must be paid by the person on whom the penalty is imposed.

CHAPTER 4 - SETTLEMENT REGULATIONS IN THE UK (FCA)

- GEN 6.1.5 says that no firm may enter into, arrange, claim on or make a payment under a contract of insurance that is intended to have, or has or would have, the effect of indemnifying any person against all or part of a financial penalty.

CHAPTER-5**Detailed SEBI v/s MAS Comparative Matrix**

Particular	SEBI (India)	MAS - Singapore
Regulator	Securities and Exchange Board of India (SEBI)	Monetary Authority of Singapore (MAS)
Primary statutory basis	SEBI Act, 1992; Securities Contracts (Regulation) Act, 1956; Depositories Act, 1996.	Primarily Securities and Futures Act 2001 (SFA), particularly s.232 for civil penalties. Other MAS-administered statutes contain their own enforcement mechanisms.
Dedicated settlement regulations	YES. SEBI (Settlement Proceedings) Regulations, 2018.	No single omnibus settlement regulation equivalent to the SEBI Regulations. Settlement is principally embedded in statutory civil-penalty provisions and related enforcement mechanisms.
Core settlement route	Statutory settlement power + detailed procedural regulations.	Statutory civil-penalty agreement / consent-order mechanism.
Principal settlement provision	Section 15JB of SEBI Act; corresponding provisions under SCRA and Depositories Act; operationalised by 2018 Regulations.	SFA s.232(4) - consent order mechanism; s.232(5) - MAS may enter into an agreement to pay a civil penalty, with or without admission of liability.
Court involvement	Not required for a SEBI settlement order under the Regulations, (subject to the status/forum of the underlying proceedings).	Not required for the s.232(5) agreement route. Court involvement exists for a civil-penalty action under s.232(1) or a consent order under s.232(4).

CHAPTER 5 - DETAILED SEBI v/S MAS COMPARATIVE MATRIX

Particular	SEBI (India)	MAS - Singapore
Settlement without admission	YES. Subject to the applicable settlement terms and undertakings.	YES. s. 232(4) expressly permits consent to an order with or without admission of contravention; s.232(5) permits an agreement to pay a civil penalty with or without admission of liability.
Settlement with admission	YES. Subject to the applicable settlement terms.	YES.
Monetary settlement	YES. Settlement terms may include monetary settlement amounts.	YES. Civil penalty may be agreed within statutory limits under s.232(5).
Non-monetary settlement terms	YES. Regulation 9 permits settlement terms beyond the monetary amount, including undertakings and other terms as applicable.	YES, in substance through undertakings / remedial commitments and agreed terms.
Disgorgement / restitution / investor compensation	Can be incorporated where legally permissible and appropriate to the settlement terms; separate investor-protection / restoration mechanisms may also apply.	Civil penalty is distinct from compensation/restitution; other statutory or regulatory mechanisms may apply depending on the facts.
Scope of proceedings	Broad specified proceedings under securities laws, including proceedings initiated or capable of being initiated under specified statutory provisions and proceedings pending before other forums, subject to the Regulations.	Scope is tied to the statutory provision under which MAS seeks civil penalty or resolves the matter; not a single universal settlement jurisdiction.

IFSC SETTLEMENT MECHANISMS - A STUDY WITH RECOMMENDATIONS FOR GIFT IFSC

Particular	SEBI (India)	MAS - Singapore
Proceedings before initiation	YES. The Regulations contemplate proceedings that may be initiated as well as proceedings already initiated and pending.	The statutory agreement mechanism does not require a separate (SEBI-style) pre-initiation settlement application structure.
Proceedings after SCN / enforcement action	YES. A central practical use of the Regulations is settlement of proceedings after initiation, including after SCN in appropriate cases.	YES, subject to the statutory basis and MAS enforcement process.
Proceedings pending before tribunal/court	YES, subject to the Regulations and relevant procedural / forum requirements.	Court-based resolution is expressly contemplated through s.232(4); direct agreement under s.232(5) is a separate route.
Application procedure	Formal settlement application under the 2018 Regulations; detailed procedural architecture.	No single omnibus settlement application procedure equivalent to SEBI's Regulations.
Settlement amount methodology	Highly structured. Reg. 10 and Schedule II provide methodology; SEBI has also made available a Settlement Calculator.	Statutory civil-penalty ceilings/floors and case-specific assessment; no comparable SEBI-style settlement calculator framework.
Internal settlement committee	YES. Internal Committee is an important part of the process.	No direct equivalent to SEBI's Internal Committee + HPAC structure identified.
High Powered Advisory Committee (HPAC)	YES. HPAC forms part of SEBI's institutional settlement architecture.	No direct equivalent identified.

CHAPTER 5 - DETAILED SEBI v/s MAS COMPARATIVE MATRIX

Particular	SEBI (India)	MAS - Singapore
Final approval	Settlement terms are ultimately approved by the competent SEBI authority / Panel of WTMs in accordance with the Regulations.	MAS exercises statutory authority; court involvement applies where the chosen statutory route requires it.
Settlement order	YES. Formal settlement orders are issued and published under the Regulations, subject to applicable requirements.	Resolution may be through MAS agreement and/or court consent order, depending on the route.
Publication	Settlement orders are published on SEBI's website, subject to the Regulations and applicable confidentiality provisions.	MAS publishes many enforcement / civil-penalty outcomes, subject to applicable disclosure/confidentiality considerations.
Confidentiality	Specific confidentiality protections and procedural treatment exist under the Regulations, subject to statutory exceptions and publication requirements.	Confidentiality is subject to Singapore's statutory framework and MAS disclosure/public-interest obligations.
Effect of settlement	Specified proceedings are disposed of in accordance with the approved settlement terms/order.	Civil penalty matter is resolved in accordance with the agreement or court order, as applicable.
Breach of settlement terms	Can trigger enforcement/reopening consequences under the Regulations, including where there is lack of full and true disclosure or breach of undertakings/conditions.	Failure to pay agreed civil penalty can lead to recovery as a judgment debt; other regulatory consequences may also follow.

Particular	SEBI (India)	MAS - Singapore
Criminal proceedings	Settlement Regulations principally address specified civil/administrative/regulatory proceedings; criminal liability is dealt with separately.	Civil penalty under s.232 is distinct from criminal proceedings; criminal enforcement may proceed separately where applicable.
Regulatory philosophy	Structured negotiated settlement regime with procedural safeguards, institutional review, settlement terms and published orders.	Flexible statutory civil-penalty resolution model, particularly notable for direct regulator-person agreements and admission/no-admission flexibility.
Key strength	Predictability and institutionalised procedure; transparent settlement process; developed settlement methodology.	Speed and flexibility; direct statutory settlement agreement; explicit no-admission mechanism.
Key limitation / gap	More formal and potentially process-heavy.	Less of a single, transparent omnibus settlement code compared with SEBI; mechanism varies by statute.

Key statutory references

- **SEBI (Settlement Proceedings) Regulations, 2018**
- **SEBI Act, 1992 - Section 15JB** – Statutory settlement power underlying the SEBI Settlement Proceedings Regulations.
- **Securities and Futures Act 2001 - Section 232** – MAS civil-penalty provision; subsections (4) and (5) provide consent-order and direct agreement routes, including with or without admission.
- **IFSCA Act, 2019 - Section 13(4)** – Provides for mutatis mutandis application of relevant provisions of underlying Acts concerning, *inter alia*, settlement of civil and administrative proceedings and compounding.

- **IFSCA Act, 2019 - Section 13(5)** – Expressly refers to settlement amounts and their collection/realisation in foreign-currency equivalent.

MAS (Monetary Authority of Singapore)

Selected Civil Penalty Settlement Actions – Summary Table

*Note: These are civil penalty settlement agreements entered into under section 232 of the Securities and Futures Act (SFA) – MAS's out-of-court settlement mechanism, with or without admission of liability. **MAS does not publicly release the full legal settlement text**; the details below are summarized from MAS's official media releases, linked in the Source column.*

Sl. No.	Subject	Date	Misconduct	Penalty / Order	Legal Basis	Source
1	Credit Suisse AG	2023	Misconduct by relationship managers	S\$3.9m civil penalty + separate client compensation	SFA s.232	Link
2	Ngin Kim Choo & Yeo Jin Lui	25 April 2022	False trading (KS Energy Ltd shares)	\$100,000 & \$50,000 civil penalties; 5-yr & 4-yr Prohibition Orders	SFA s.197(1) (b), s.232	Link
3	Gui Boon Sui @ Goi Chon Yan	2025	False trading + unauthorised trading (Hiap Hoe Ltd, Hotel Grand Central Ltd)	S\$350,000 civil penalty	SFA s.232	Link
4	Aw Yong, Neo, Chang, Tan, Cheng (5 individuals)	2025	False / unauthorised trading	\$150,000 / \$100,000 / \$75,000 / \$65,000 / \$50,000 civil penalties	SFA s.232	Link

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Sl. No.	Subject	Date	Misconduct	Penalty / Order	Legal Basis	Source
5	Dr Chua Han Boon Kenneth	30 June 2026	Insider trading (Singapore Medical Group Ltd)	S\$120,000 civil penalty	SFA s.218(2) (a), s.232	Link

Source: mas.gov.sg/regulation/enforcement/enforcement-actions (accessed 20th August, 2026).

CHAPTER-6

Comparative Research Report

Design of a Settlement Mechanism for the International Financial Services Centres Authority (IFSCA), GIFT City

Jurisdictions Studied:

India (SEBI baseline) • United States (SEC) • United Kingdom (FCA/PRA) • Luxembourg (CSSF) • Hong Kong (SFC) • Dubai/UAE (DFSA) • Singapore (MAS) • Australia (ASIC) • Canada (OSC/CSA) • Brazil (CVM) • China (CSRC) • Japan (JFSA/SESC) • Switzerland (FINMA) • Germany (BaFin)

1. Executive Summary

This report examines how securities and financial services regulators across fourteen jurisdictions resolve enforcement proceedings through negotiated, consent-based, or settlement-based mechanisms, as opposed to full adjudication. It is intended to inform the design of a settlement mechanism for the International Financial Services Centres Authority (IFSCA) at GIFT City, drawing on the closest existing template – the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 – and benchmarking it against comparable regimes in the United States, United Kingdom, Luxembourg, Hong Kong, Dubai (DIFC), Singapore, Australia, Canada, Brazil, China, Japan, Switzerland and Germany.

The central finding is that jurisdictions fall into three broad families:

- Common-law, principles-based regulators with a mature, codified settlement/consent framework – SEBI (India), SEC (US), FCA/PRA (UK), SFC (Hong Kong), DFSA (Dubai/DIFC), MAS (Singapore), ASIC (Australia), OSC and other Canadian securities commissions.
- Civil-law regulators with a hybrid or narrower settlement tool, often statute-based and used more sparingly – CVM, CSRC (China, the administrative settlement pilot), BaFin (Germany, via court-stage settlement under the OWiG).
- Regulators with no formal settlement procedure for administrative/regulatory sanctions at all – CSSF (Luxembourg) and FINMA

(Switzerland), where fines are either absent (FINMA has no power to levy fines) or imposed unilaterally, with negotiation limited to remediation and informal dialogue; similarly Japan's SESC/JFSA regime treats an admission of the alleged violation as acceleration of the standard penalty process rather than a true settlement.

Across the mature regimes, five design features recur and are directly relevant to IFSCA:

- A time-tiered financial discount that rewards early resolution (FCA: 30/20/10%; SFC Hong Kong: 30/20/10% under Section 201 agreements; DFSA: up to 30% early-settlement discount) — creating a genuine incentive to settle early rather than late.
- A structural separation between the investigating/negotiating team and the final decision-maker, to preserve independence and defensibility (FCA's Settlement Decision Makers and RDC; DFSA's separate Settlement Decision Maker; SEBI's Internal Committee → High Powered Advisory Committee → Panel of Whole Time Members).
- Impact-based exclusion of the gravest matters is common in the more mature regimes, but there is no universal model: SEBI uses a facts-and-impact test, while other regimes may settle serious misconduct but IFSCA Settlement Mechanism — Comparative Research Report with heightened scrutiny, different routes, or tribunal/court approval. SEBI also separately bars specified applicant categories such as wilful defaulters and fugitive economic offenders.
- Publication of settled outcomes is the dominant transparency model in mature regimes, but it is not universal or identical across jurisdictions: FCA, DFSA, SEBI, OSC and ASIC publish settled outcomes systematically; MAS publishes selectively; SFC generally publicises outcomes; CSSF and FINMA may anonymise where proportionate.
- Controls on repeat settlement are common as a matter of enforcement policy, but a codified look-back bar is not universal. SEBI has a distinctive graduated look-back rule; several other regimes instead treat prior misconduct as an aggravating factor or assess eligibility case-by-case.

The study and comparison has been organised into: (Part 2) methodology; (Part 3) a master comparison table across all dimensions and all fourteen jurisdictions; (Part 4) detailed jurisdiction-by-jurisdiction profiles; (Part

5) thematic cross-cutting analysis answering each of the twelve questions posed; (Part 6) a dedicated analysis of third-party payment on behalf of a settling party; and (Part 7) recommendations for the design of the IFSCA settlement mechanism.

2. Methodology and Scope

The research draws on primary regulatory sources (statutes, regulations, rulebooks, decision notices and settlement orders published by each regulator) supplemented by secondary legal commentary from law firms and industry bodies, current as of August 2026 – verified through 21 August 2026. Because several regulators (notably FINMA, CSSF and JFSA) do not operate a codified “settlement mechanism” in the sense SEBI or the FCA do, those jurisdictions are analysed on the basis of their closest functional equivalent, and the absence of a mechanism is itself treated as a data point of comparative significance for IFSCA.

The scope is confined to administrative/regulatory (civil) enforcement by the primary securities/financial-services regulator in each jurisdiction. Criminal settlement/plea mechanisms (e.g., US DOJ deferred prosecution agreements, criminal composition under Luxembourg’s penal code) are referenced only where they illuminate the regulatory picture, since IFSCA’s settlement power, like SEBI’s, will operate over civil/administrative – not criminal – proceedings.

3. Master Comparison Table

The table below summarises each jurisdiction against the eleven core dimensions specified for this study. “—” denotes that the feature does not exist or is not applicable in that regime.

Jurisdiction/ Regulator	Formal Settlement Mechanism?	Discount for Early Settlement?	Typical Timeline	Multiple Settlements Allowed?	Fraud Settleable?
India – SEBI	Yes (Settlement Regns. 2018)	No fixed % – negotiated settlement amount per schedule/ formula	Weeks to ~12 months typical	Yes, but barred for 2- 3 yrs after a prior settlement	Conditionally – barred only if market- wide impact/ large investor loss/market integrity affected

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Jurisdiction/ Regulator	Formal Settlement Mechanism?	Discount for Early Settlement?	Typical Timeline	Multiple Settlements Allowed?	Fraud Settleable?
USA — SEC	Yes (Rule 240, offers of settlement)	No fixed discount; cooperation credit factored into penalty	Months to 1-2 years	Yes, no numeric cap, but recidivism raises penalty	Yes, routinely — no-admit/ no-deny consent orders common even in fraud cases
UK — FCA / PRA	Yes (DEPP settlement framework)	Yes — 30% (Stage 1) / 20% (Stage 2) / 10% (Stage 3); PRA up to 50%	28-day Stage 1 window; can extend to Decision Notice stage (several months-2 yrs)	Yes, case-by-case; repeat conduct is an aggravating factor	Yes — most FCA fraud/ market-abuse cases settle
Luxembourg — CSSF	No formal administrative settlement; informal discretion only	No	N/A (unilateral fine determination)	N/A	N/A — no settlement route; criminal settlement (transaction) exists separately, capped at offences carrying ≤5 yrs imprisonment
Hong Kong — SFC	Yes — s.201 disciplinary agreements plus court/ MMT consent resolution routes under the SFC's 1 June 2023 Cooperation Guidance	Up to 30% / 20% / 10% in the disciplinary route; civil court/MMT mitigation is case-specific	No fixed duration; disciplinary settlement can be reached from detection through Decision Notice; court/MMT resolution can occur before determination	No numeric cap stated; each case is assessed independently	Serious market misconduct can be resolved through the applicable civil/MMT consent route; criminal proceedings are excluded from the Guidance Note

CHAPTER 6 - COMPARATIVE RESEARCH REPORT

Jurisdiction/ Regulator	Formal Settlement Mechanism?	Discount for Early Settlement?	Typical Timeline	Multiple Settlements Allowed?	Fraud Settleable?
Dubai (DIFC) — DFSA	Yes — RPP 5-15 settlement route; Settlement Decision Maker approves the settled outcome (DMC is the ordinary contested decision- maker)	Yes — ordinarily 30% on the financial- penalty component within the specified settlement period; disgorgement portion is not discounted	Settlement can arise at different stages; ordinarily a 28-day window is specified for the discount	No express numeric cap found; repeat conduct can affect the regulatory assessment	Serious misconduct may be settled; there is no general categorical fraud exclusion in the RPP, subject to the DFSA's regulatory objectives and case- specific appropria- teness
Singapore - MAS	Yes (civil penalty settlement agreements; for composition offences)	No fixed %, but composition sum fixed by reference to prescribed fine (implicit reduction vs. prosecution)	Months to ~1-2years	Yes, no express cap	Only civil/ market- misconduct fraud (civil penalty regime); criminal fraud not composable
Australia - ASIC	Yes (Enforceable Undertakings, Infringement Notices — not court settlement in strict sense)	No cash discount; EU substitutes for court penalty	Weeks (infringement many notice) to months (EU)	Yes, no express cap; repeat conduct affects choice of tool	EUs are used even in serious matters, but infringement notices are for lower-level provisions only
Canada — OSC / CSA	Yes (Settlement Agreements; No-Contest Settlements since 2014)	No fixed %; sanction negotiated, discount implicit vs. contested outcome	Months to ~1-2 years	Yes, no numeric cap	No-contest settlements excluded for fraud/ dishonest conduct; standard settlements do cover fraud with admissions

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Jurisdiction/ Regulator	Formal Settlement Mechanism?	Discount for Early Settlement?	Typical Timeline	Multiple Settlements Allowed?	Fraud Settleable?
Brazil — CVM	Yes (Termo de Compromisso, Art. 11 §5 Law 6385/76)	No fixed %; obligation negotiated by Settlement Committee (CTC)	Months (can be proposed or pre- post-indictment)	Yes, but recidivism weighed against acceptance	Yes, incl. insider no trading guilt admission required
China — CSRC	Yes (Administrative Settlement Pilot, since 2015)	No fixed %; settlement fund amount negotiated	Can take years (first successful case took ~4 yrs from pilot launch)	Limited pilot scope; not yet a mass mechanism	Yes — the landmark Goldman Sachs/Gao Hua case involved alleged market-manipulation-adjacent conduct
Japan — JFSA / SESC	No true settlement — only accelerated acknowledgment of pre-set penalty	No	Faster than contested route but still a unilateral penalty order	N/A	N/A — administrative monetary penalty is fixed by statute, not negotiated
Switzerland - FINMA	No formal settlement procedure; FINMA cannot impose fines at all	No	N/A	N/A	N/A — enforcement outcomes are unilateral administrative rulings (bans, disgorgement, licence revocation)
Germany — BaFin	No settlement at BaFin stage; negotiated resolution may occur in court proceedings, while OWiG s.77b concerns dispensing with written reasons for the judgment rather than creating a standalone settlement power	No statutory settlement discount ladder; any negotiated reduction is case-specific in the judicial process. OWiG s.77b is procedural and concerns the statement of reasons for judgment.	BaFin stage: months; court settlement possible after appeal is filed	No express cap (rare route)	Fraud/ market abuse fines are issued unilaterally by BaFin; settlement only mitigates disputed cases on court appeal

3.1 Decision-Makers, Publication and Order Form

Jurisdiction	Who Decides / Approves Settlement	Always by Formal Order?	Publication Rule
India – SEBI	Internal Committee (screens) → High Powered Advisory Committee, HPAC (negotiates terms; mix of SEBI officials & independent/retired members) → Panel of Whole Time Members (final approval)	Yes – settlement order	Published on SEBI website as a settlement order; has limited evidentiary value (not treated as admission)
USA – SEC	SEC Commissioners (5-member Commission) approve offers of settlement / consent; ALJ or district court incorporates into order/judgment	Yes – order instituting proceedings / consent judgment	Published on SEC.gov (administrative proceedings & litigation releases); consent judgments are public court filings
UK – FCA/ PRA	Settlement Decision Makers (2 members of senior management, independent of case team) for Stage-1 full settlements; Regulatory Decisions Committee (RDC) for partly-contested/ Focused Resolution Agreements	Yes – Final Notice	FCA publishes Final Notices on its website (name, breach, penalty); PRA similarly publishes Final Notices
Luxembourg -CSSF	CSSF (unilateral); no Board/Executive Board settlement decision-maker	Yes – administrative sanction decision	CSSF publishes sanction decisions on its website (anonymised in some AML cases per proportionality)

IFSC SETTLEMENT MECHANISMS - A STUDY WITH RECOMMENDATIONS FOR GIFT IFSC

Jurisdiction	Who Decides / Approves Settlement	Always by Formal Order?	Publication Rule
Hong Kong - SFC	No dedicated settlement committee is created by the Guidance Note; the SFC decides disciplinary agreements, while the court/MMT decides whether agreed facts/orders are approved in those routes	Disciplinary route: s.201 agreement / Decision Notice; court/MMT routes: agreed facts and proposed orders subject to judicial/tribunal approval	Settled disciplinary outcomes are generally publicised; court/MMT outcomes are public proceedings/orders, subject to applicable confidentiality and reporting rules
Dubai (DIFC) - DFSA	DFSA Settlement Decision Maker – senior DFSA staff member not directly involved in establishing the evidence; DMC remains the ordinary contested decision-maker	Generally – agreed Notice of Decision, an Enforceable Undertaking, or both	DFSA publishes Decision Notices and Consent Orders on its Regulatory Actions register
Singapore MAS -	MAS itself (via its enforcement department, with internal escalation to senior management/ Board for high-value matters); court not required to endorse civil penalty settlement	Not always – many settlements are civil penalty agreements, not court orders; composition is by way of a composition notice	MAS publishes select enforcement actions on its website; not all matters are published (case-by-case)
Australia – ASIC	ASIC itself accepts Enforceable Undertakings and issues Infringement Notices; EUs may be lodged with and are enforceable through the Federal Court	Not a "settlement order" in the adjudicative sense – EU is a registered undertaking; infringement notice is a notice, not an order	ASIC maintains public registers – Court Enforceable Undertakings Register and Infringement Notices Register

Jurisdiction	Who Decides / Approves Settlement	Always by Formal Order?	Publication Rule
Canada - OSC/CSA	OSC Commission / Capital Markets Tribunal panel must approve settlement agreement at a public hearing	Yes – settlement agreement approved and issued as a Commission/Tribunal order	Settlement agreements and hearing panel reasons are published on OSC/ Tribunal website
Brazil – CVM	CVM's Collegiate Board (Colegiado), on recommendation of the Settlement Committee (Comitê de Termo de Compromisso, CTC)	Yes – Termo de Compromisso is itself a formal, published instrument	Published in the Official Gazette (Diário Oficial da União) and on CVM's website
China – CSRC	CSRC's internal settlement review process, with State Council-approved implementing measures; joint fund administration with Ministry of Finance	Yes – administrative settlement agreement/decision	Published part of CSRC's as settlement case administrative disclosures
Japan - JFSA/SESC	SESC recommends; FSA Commissioner issues the administrative monetary penalty payment order (no negotiation body)	Yes – payment order either way (contested or acknowledged)	SESC publishes recommendations and FSA publishes penalty orders on its website
Switzerland FINMA	FINMA itself issues rulings unilaterally; no settlement decision-maker exists	Yes – FINMA ruling (Verfügung)	FINMA may publish rulings (naming and shaming) where proportionate; often anonymised
Germany BaFin	BaFin issues the fine notice unilaterally; a settlement, if any, occurs only before the Frankfurt Local Court on appeal	Yes – fine notice, or court order if settled on appeal	BaFin publishes administrative fine notices (Sec. 40c WpHG) on its website, generally after they become final/binding

3.2 Settlement Committee / Decision-Body Composition and Qualification Criteria

Jurisdiction	Settlement/Decision Body Composition & Qualification Approach
India – SEBI	Internal Committee: SEBI officials (typically Executive Directors/senior officers, chaired by ED-level officer). HPAC: predominantly retired judges, retired regulators, and eminent persons from law/finance/academia appointed by SEBI, with SEBI officials also participating; membership and tenure set by SEBI administratively, no statutory eligibility criteria published beyond "persons of eminence." Panel of Whole Time Members: statutory Whole Time Members of SEBI (appointed under the SEBI Act by the Central Government).
USA – SEC	The five Presidentially-appointed, Senate-confirmed SEC Commissioners (no more than three from one political party) constitute the ultimate decision body for settlement approval; day-to-day settlement negotiation is delegated to the Division of Enforcement staff, subject to Commission sign-off.
UK – FCA/ PRA	Settlement Decision Makers: two senior FCA staff members (drawn from a pool, typically senior managers/legal) who were not part of the investigation team. RDC: an independent committee (mostly non-FCA-employee members, including senior industry, legal and lay members) that operates separately from the Enforcement Division and decides partly-contested and Focused Resolution Agreement cases.
Hong Kong – SFC	No separate settlement committee identified in the current Guidance Note. For disciplinary settlements, authority remains with the SFC; for s.213/s.214/MMT matters, the court or MMT is the final decision-maker on agreed orders.
Dubai (DIFC) – DFSA	Settlement Decision Maker: senior DFSA staff member not directly involved in establishing the evidence; no publicly stated detailed professional-qualification threshold; DMC is not the settlement approval body.

Jurisdiction	Settlement/Decision Body Composition & Qualification Approach
Singapore – MAS	No standing external "settlement committee"; enforcement decisions (including civil penalty settlement) are taken within MAS's Enforcement Department with escalation to senior management/Deputy Managing Director level for significant cases; MAS Board is not routinely involved in individual settlements.
Australia – ASIC	No settlement committee; Enforceable Undertakings are accepted administratively by ASIC (senior investigators/Commissioners as delegated); the Markets Disciplinary Panel (MDP) – an independent, part-time peer-review panel of market practitioners and former regulators – decides on infringement notices for market integrity rule breaches specifically.
Canada – OSC/CSA	Settlement agreements must be approved by a Hearing Panel of the Capital Markets Tribunal (Ontario) – Tribunal members are appointed by the Ontario government, generally senior securities lawyers, academics, or former regulators, sitting independently of OSC Staff (the prosecuting arm).
Brazil – CVM	Comitê de Termo de Compromisso (CTC): an internal CVM technical committee that negotiates and recommends settlement terms; final acceptance rests with CVM's Collegiate Board (Colegiado) – the 5-member board of Commissioners (Presidente + 4 Diretores) appointed by the Brazilian President, confirmed by the Senate.
China – CSRC	Settlement handled through CSRC's internal enforcement/legal apparatus under State-Council-approved implementing measures, with fund administration jointly overseen with the Ministry of Finance; no independent external settlement panel disclosed in public sources – reflects the pilot, discretionary nature of the mechanism.
Japan – JFSA/SESC	Not applicable in the true settlement sense: SESC (a quasi-independent commission of a Chairman and two Commissioners, Diet-approved) recommends; the FSA Commissioner (a Ministry-level official) issues the final administrative monetary penalty order.

Jurisdiction	Settlement/Decision Body Composition & Qualification Approach
Switzerland – FINMA	Not applicable – no settlement body exists; FINMA's Board of Directors and Executive Board oversee general enforcement policy but do not negotiate individual settlements, since none occur.
Germany – BaFin	Not applicable at the regulator stage – BaFin's relevant division head issues the fine notice; if a settlement occurs, it is negotiated with the Frankfurt Local Court judge and the public prosecutor's office participating in the OWiG appeal proceeding, not with BaFin itself.

4. Detailed Jurisdiction Profiles

Each profile below follows the same structure, mapped to the twelve questions and the supplementary list specified for this study: (a) legal basis and offences covered; (b) whether fraud is settleable; (c) process and timeline; (d) discount mechanism; (e) single vs. multiple settlements; (f) decision-makers and their qualifications; (g) authority to grant leeway on penalty; (h) form of the settlement (order or otherwise); (i) publication rule; (j) consent/no-admission scope; (k) third-party payment position (addressed jointly in Part 6).

4.1 India – SEBI (Settlement Proceedings) Regulations, 2018 (now under thorough review)

Legal basis and offences covered

SEBI (Settlement Proceedings) Regulations, 2018, effective 1 January 2019, replaced the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014. “Securities laws” was widened to cover all laws administered by SEBI (not just the SEBI Act, SCRA and Depositories Act), and “specified proceedings” now extends to proceedings before any forum, not merely SEBI itself.

Is fraud subject to settlement?

Conditionally yes. The 2014 Regulations carried a blanket exclusion for insider trading, front-running and fraudulent/unfair trade practices. The 2018 Regulations replaced the blanket bar with a facts-based test: SEBI may decline to settle a default only where, in its opinion, the default has (i) a market-wide impact, (ii) caused losses to a large number of investors, or

(iii) affected the integrity of the market. This was a deliberate policy shift recommended by the Justice Anil R. Dave Committee, to prevent serious offences from being settled cheaply while not excluding an entire category of law from settlement altogether.

Persons classified as wilful defaulters, fugitive economic offenders, or who have defaulted on payment of fees/penalties under securities law are barred from applying for settlement at all.

Process and timeline

An applicant may file a settlement application even before a show-cause notice, or after one is issued, in the prescribed form with full disclosure and appropriate waivers. The Internal Committee examines the application; the High Powered Advisory Committee (HPAC) negotiates/recommends settlement terms (monetary and non-monetary); the Panel of Whole Time Members gives final approval. Reported cases show a range from a few weeks (routine adjudication-stage matters) to roughly a year for more complex matters.

Discount mechanism

SEBI does not publish a fixed percentage discount schedule (unlike the FCA/SFC/DFSA model). The settlement amount is computed with reference to an internal formula/schedule tied to the nature of default, disgorgement of unlawful gain, and non-monetary terms (undertakings, debarment, etc.), effectively producing an outcome lower than the maximum contested penalty, but the discount is not expressed as a transparent percentage in the way UK/HK/DFSA regimes are.

Single or multiple settlements?

Multiple settlements are permitted but time-barred: no settlement application is considered if a violation was committed within two years of a prior consent/settlement order against the same applicant; if the applicant already has more than two settlement orders, the bar extends to three years from the last order. This graduated look-back deters repeat use of the mechanism as a routine compliance cost.

Decision-makers and qualification criteria

Three-tier structure: Internal Committee (SEBI officers) → High Powered Advisory Committee, comprising predominantly retired judges/regulators/ eminent persons in law and finance, together with SEBI representation → Panel of Whole Time Members (statutory WTMs appointed under the SEBI Act)

for final sign-off. No codified statutory eligibility criteria are published for HPAC members beyond seniority/eminence; appointments are administrative.

Who is authorised to give leeway on penalty?

The HPAC recommends the settlement terms (including any reduction versus the notional maximum penalty); final authority to accept, modify, or reject rests with the Panel of Whole Time Members.

Always by way of order?

Yes – a settlement order is passed, disposing of the specified proceeding on the agreed terms once the settlement amount/undertakings are fulfilled.

Publication rules

Settlement orders are published on SEBI's website like other orders. However, the Regulations state that a settlement order has limited evidentiary value – it is not to be construed as an admission of the violation alleged, protecting the applicant from collateral estoppel in other proceedings while preserving public transparency about the outcome.

Consent/no-admission scope

Settlement under the 2018 Regulations proceeds without SEBI having to prove the violation and without the applicant admitting guilt in a way that binds it in other fora; confidentiality of settlement discussions is conditional on full, truthful, and continuing cooperation, and can be forfeited (and the order revoked) if false disclosures are later discovered or terms are breached.

Current-status update (21 August 2026): the SEBI (Settlement Proceedings) Regulations, 2018 remain the operative regulations and are listed by SEBI as last amended on 28 November 2024. On 14 August 2026, SEBI published a Consultation Paper proposing a review of the 2018 framework. The consultation proposes, among other changes, a new settlement-amount formula, revised disgorgement-interest treatment, a 90-day application window, clearer counting of defaults, treatment of serious financial-misrepresentation/siphoning cases, voluntary debarment/suspension as settlement terms, a fast-track route for specified matters, revised withdrawal consequences, a possible fresh application after rejection in specified circumstances, and transition rules for pending applications. These are proposals only; they should not be presented as current law unless and until SEBI adopts them.

Sources: SEBI (Settlement Proceedings) Regulations, 2018; Report of the High Level Committee to Review the Enforcement & Settlement Mechanism

(Dave Committee); AZB & Partners, Cyril Amarchand Mangaldas and IBA case commentary; SEBI settlement orders.

4.2 United States — SEC (and New York/NYDFS note)

Legal basis and offences covered

SEC Rule of Practice 240 and Rule 202.5 (recently amended in 2026) govern offers of settlement in administrative proceedings; for federal court actions, defendants sign a consent that the SEC asks the court to enter as a consent judgment. In May 2026 the SEC rescinded the policy of requiring settling parties to agree not to publicly deny the SEC's allegations; this changed the settlement disclosure posture effective 21 May 2026. The SEC also restored the practice (September 2025) of allowing a settling party to have its settlement offer and any related collateral- consequence waiver request considered simultaneously, removing earlier uncertainty about whether a waiver would follow a settlement.

Is fraud subject to settlement?

Yes, routinely. “No-admit, no-deny” cease-and-desist and consent orders are the standard resolution vehicle even for fraud, insider trading, and market manipulation cases; disgorgement, prejudgment interest, and civil penalties are typically negotiated as part of the package (e.g., the SEC's own reporting shows individual fraud cases resolved via disgorgement plus civil penalty plus undertakings).

Process and timeline

The Division of Enforcement staff negotiates terms with the respondent/ defendant; the settlement offer or consent then goes to the five-member Commission for approval (or, for court actions, to the presiding federal judge). Timelines vary widely — from a few months for straightforward matters to well over a year for complex, multi- respondent cases; the U.S. enforcement volume itself has fallen markedly under the current administration's “back to basics” enforcement philosophy, which also affects timelines.

Discount mechanism

The SEC does not operate a formal percentage-discount ladder. Instead, cooperation credit (self-reporting, remediation, cooperation with the investigation) is weighed qualitatively into the ultimate settlement terms — the classic example being a company that self-reports and remediates avoiding a civil penalty altogether while individuals are separately charged.

Single or multiple settlements?

No statutory numeric cap on repeat settlements, but recidivism is an aggravating factor in subsequent penalty calculations, and repeated conduct can jeopardise eligibility for favourable terms (e.g., well-known seasoned issuer status, or exemptive waivers) in future matters.

Decision-makers and qualification

The five SEC Commissioners — Presidentially nominated, Senate-confirmed, staggered five-year terms, no more than three from one political party — vote to accept settlement offers; in contested administrative matters an Administrative Law Judge (ALJ) may be involved, but settled matters bypass adjudication.

Who is authorised to give leeway on penalty?

The Division of Enforcement negotiates; the Commission (or the court, for judicial consents) has final authority to accept, reject or modify terms. The Chairman's September 2025 statement specifically restored the Commission's ability to consider waiver relief alongside the settlement itself, effectively expanding leeway available at the point of Commission vote.

Always by way of order?

Yes — either an order instituting proceedings (administrative) incorporating the offer of settlement, or a consent judgment entered by a federal court.

Publication rules

All settled administrative orders and consent judgments are public and posted on SEC.gov, together with litigation releases; there is no confidentiality option for the final order itself (only settlement negotiations are typically off the record).

New York (NYDFS) note

Separately, for entities also regulated by the New York Department of Financial Services (relevant for many international financial institutions), NYDFS operates its own consent-order settlement practice under New York Banking/Financial Services Law, broadly similar in structure (negotiated consent order, published, with civil penalty and undertakings), but is a state banking/DFS regulator rather than a securities regulator — flagged here since the user's list separately named "New York" and "US".

Sources: SEC Rules of Practice 240 & 202.5; Federal Register notice (2026, Rule 202.5(e) repeal); Morgan Lewis Securities Enforcement Roundups (Sept.

2025 & Dec. 2025); SEC EDGAR settlement disclosures (e.g., Singularity Future Technology, Emergent BioSolutions, MUFG Securities EMEA).

4.3 United Kingdom – FCA and PRA

Legal basis and offences covered

The FCA's Decision Procedure and Penalties manual (DEPP), part of the FCA Handbook, governs settlement. It applies across the FCA's regulatory remit – market abuse, mis-selling, systems-and-controls failures, financial crime/AML failings, and individual conduct (fitness and propriety) cases. The PRA operates a parallel, separate settlement policy for prudential matters.

Is fraud subject to settlement?

Yes – the FCA settles market-abuse and fraud-adjacent misconduct routinely; there is no categorical bar, though the FCA weighs public interest and investor redress considerations before agreeing to settle any case.

Process and timeline (and discount mechanism)

The FCA operates a clearly tiered, time-based discount scheme, restructured in 2017: Stage 1 (settlement within roughly 28 days of a draft Warning Notice, i.e., before the Warning Notice is formally issued) attracts a 30% discount; Stage 2 (up to expiry of the period for written representations to the Regulatory Decisions Committee, RDC) attracts 20%; Stage 3 (up to issue of the Decision Notice) attracts 10%; no discount is available after a Decision Notice is issued. Since 2017, a “Focused Resolution Agreement” (FRA) allows a firm to contest only the penalty (not the facts/liability) and still access up to the full 30% discount if resolved within Stage 1, or a discretionary discount up to 30% at the RDC's discretion in partly-contested cases beyond Stage 1 – a material liberalisation from the earlier all-or-nothing approach. The PRA's 2019 revised enforcement policy offers up to a 50% early-settlement discount, a notably higher ceiling than the FCA's, reflecting the PRA's smaller, more concentrated population of regulated firms (~1,500 vs. the FCA's ~45,000).

Historical FCA data shows roughly 58% of cases closing via “executive settlement” concluded on average 19.6 months after referral to enforcement – around 18 months faster than cases going to the RDC, and over 30 months faster than cases reaching the Upper Tribunal.

Single or multiple settlements?

No express numeric cap on repeat settlements; however, prior settled misconduct is an aggravating factor for any subsequent case, and repeat/serious breaches can result in loss of authorisation regardless of a firm's ability or willingness to settle.

Decision-makers and qualification criteria

For full (Stage 1-3) settlements, two members of FCA senior management, known as Settlement Decision Makers, who were not part of the investigating team, take the settlement decision under special decision-making arrangements, subject to a high-level legal review by a lawyer uninvolved in the investigation. For partly-contested cases/FRA, the Regulatory Decisions Committee (RDC) – an internal-but-independent committee, distinct from the Enforcement Division, including senior industry, legal and lay members – determines both the sanction and the discount.

Who is authorised to give leeway on penalty?

Settlement Decision Makers (full settlements) or the RDC (partly-contested/FRA cases) have discretion within the tiered-discount framework; the RDC additionally has discretion, in partly-contested cases, to grant a discount of up to 30% even outside the strict Stage 1 window.

Always by way of order?

Yes – settlements culminate in a Final Notice, treated by the FCA identically to a contested outcome for publication purposes; a settlement is not a private, out-of-court commercial compromise but a regulatory determination whose terms the firm/individual accepts.

Publication rules

FCA and PRA both publish Final Notices in full on their websites, naming the firm/individual, the breach, and the penalty (net of discount, with the pre-discount amount also disclosed) – there is no confidential-settlement option for the final outcome.

Sources: FCA “Settlement in enforcement cases” (fca.org.uk); FCA DEPP Handbook; Kingsley Napley, Pinsent Masons, Osborne Clarke, Macfarlanes, Rahman Ravelli client briefings; GOV.UK “Review of enforcement decision-making at the financial services regulators”.

4.4 Luxembourg – CSSF**Legal basis and offences covered**

The CSSF (Commission de Surveillance du Secteur Financier) has no express legal provision for settlement of administrative sanction proceedings. It may use its discretionary powers when setting the amount of an administrative fine or severity of a sanction – informed by informal discussion with the supervised entity – but this is not a codified settlement mechanism with defined stages, discounts, or a settlement order as such.

Is fraud subject to settlement?

Not via the administrative route (none exists). Separately, Luxembourg criminal procedure does allow a true settlement (transaction pénale) in criminal proceedings before a district-court merits decision, but only for offences carrying a maximum of five years' imprisonment – a criminal, not securities-regulatory, mechanism, with the settlement to be reached within four months of the initial offer (extendable to eight months); a formal refusal or non- response to an offer within one month voids the process.

Process, discount, decision-makers

For administrative fines, the CSSF unilaterally determines the sanction, taking into account gravity, duration, financial strength of the party, degree of responsibility, and level of cooperation – cooperation can mitigate the fine but there is no formal discount percentage or settlement committee. Fines can reach €5 million or 10% of annual turnover (whichever is higher) for serious AML/CFT breaches, illustrating that the absence of a settlement route does not correlate with lower maximum penalties.

Publication rules

The CSSF publishes administrative sanction decisions on its website as a matter of course (e.g., the 2024 sanctions against Fuchs & Associés Finance, Intertrust, abrdn Investments Luxembourg, and JTC Luxembourg), giving reasoned decisions with the fine amount and underlying breach.

Relevance for IFSCA design

Luxembourg is the clearest counter-example in this study: a sophisticated, EU-passport-relevant fund and financial centre regulator that deliberately has not adopted a formal settlement mechanism, relying instead on discretionary fine-setting with informal dialogue. This is useful evidence that a settlement mechanism is a policy choice, not a structural necessity for a major cross-border fund hub.

Sources: Lexology “Spotlight: public enforcement against securities market misconduct in Luxembourg”; CSSF sanction decisions (Fuchs & Associés, Intertrust, abrdn, JTC Luxembourg); FluxForce AML compliance summary; OpenSanctions CSSF dataset.

4.5 Hong Kong — SFC**Legal basis and offences covered**

Section 201 of the Securities and Futures Ordinance (Cap. 571) empowers

the SFC to enter into an agreement to resolve disciplinary proceedings at an early stage where it considers this appropriate in the interest of the investing public or the public interest. The SFC's current Guidance Note on Cooperation is dated 1 June 2023 and governs cooperation in disciplinary proceedings as well as the SFC's practice in civil-court and Market Misconduct Tribunal (MMT) proceedings. It does not apply to criminal proceedings, which remain the sole discretion of the Department of Justice (DOJ).

Is fraud subject to settlement?

Fraud-type conduct that proceeds as a civil court action or before the MMT can be resolved with a cooperative party under the SFC's stated civil-court/MMT settlement practice; straightforward disciplinary fraud/dishonesty matters can also be resolved by s.201 agreement, though the most egregious cases (revocation of licence, criminal referral) are less likely to be offered a discount-based settlement.

Process, timeline and discount mechanism

Mirroring the FCA almost exactly, the SFC's New Guidance Note allows a reduction of up to: 30% if a s.201 agreement is reached before issuance of a Notice of Proposed Disciplinary Action (NPDA); 20% if reached after the NPDA but before written representations are submitted; 10% if reached from the written-representations deadline up to issuance of a decision notice. In practice, early resolution has been achieved even before a formal investigation commenced, underscoring the incentive value of early, proactive cooperation.

Current Hong Kong scope clarification: the SFC materials distinguish three resolution routes. Disciplinary proceedings may be resolved by a section 201 agreement; s.213/s.214 civil proceedings may be resolved through agreed facts/orders subject to court approval; and Market Misconduct Tribunal matters may be disposed of through consent orders subject to the Tribunal's approval. Criminal proceedings are outside this cooperation/settlement framework. The 2023 Guidance Note also permits partial settlement in appropriate court/MMT matters, so a party need not necessarily concede every issue in order to narrow the dispute.

A regulated person may make a settlement proposal directly to the SFC; settlement discussions are treated as "without prejudice" unless both sides agree otherwise, meaning neither party can rely on statements made in settlement talks in subsequent disciplinary or legal proceedings, absent a dispute about whether a settlement was in fact reached.

Single or multiple settlements?

No express numeric cap on repeat use is stated in the Guidance Note. Each case is assessed independently, and the SFC states that cooperation does not create a legitimate expectation of a right to settle. Repeat misconduct remains relevant to the regulatory assessment.

Decision-makers and qualification

The SFC's own senior management approves s.201 agreements (no separate independent settlement tribunal at the agreement stage); appeals against SFC disciplinary decisions go to the Securities and Futures Appeals Tribunal (SFAT), an independent appellate body chaired by a serving or retired High Court judge – a materially stronger independence safeguard at the appellate stage than at the settlement-negotiation stage itself.

Who is authorised to give leeway on penalty?

SFC senior management, applying the published cooperation/discount framework; undertakings (e.g., board-level commitments to remedy deficiencies within a defined period, often via a third-party review) are frequently a condition of the reduced sanction, and an independent reviewer/monitor is commonly appointed as part of the settlement – functionally similar to a monitor under a US/UK deferred prosecution agreement.

Always by way of order?

Settlements are recorded as s.201 agreements or incorporated into a decision/notice; the SFC typically also issues a public Statement of Disciplinary Action.

Publication rules

The SFC publishes disciplinary outcomes, including settled ones, as press releases/statements of disciplinary action; the SFC and Hong Kong Exchanges and Clearing (HKEx) also coordinate on and jointly publicise IPO-related misconduct enforcement.

Sources: SFC “Disciplinary proceedings” and Guidance Note on Cooperation (Dec. 2017); Herbert Smith Freehills Kramer, Ashford Benjamin, Yu Chan & Yeung client briefings; Global Investigations Review Hong Kong chapter; SFC/HKEx joint enforcement statement (2024).

4.6 Dubai (DIFC) – DFSA

Legal basis and offences covered

The DIFC Regulatory Law 2004 and the DFSA Regulatory Policy and Process (RPP)

Sourcebook govern enforcement and settlement. RPP 5-15 treats settlement as a negotiated resolution of an investigation. The case team conducts the negotiations, while a separate senior DFSA staff member – the Settlement Decision Maker, who must not have been directly involved in establishing the evidence – decides whether to accept the settlement. The DMC remains the ordinary decision-maker for contested enforcement matters. The DFSA generally implements a settled matter through a notice of decision, an Enforceable Undertaking (EU), or both; the two instruments should not be conflated. The framework covers the broad range of enforcement matters within the DFSA's regulatory remit.

Is fraud subject to settlement?

Yes – several of the DFSA's largest settled fines involve deceptive/misleading conduct amounting to fraud-type misconduct (e.g., the Deutsche Bank DIFC branch case, the Mustafa Abdel-Wadood/Abraaj-linked case, and the Peter Georgiou private-banker case), each resolved with a settlement discount alongside individual prohibition orders.

Process, timeline and discount mechanism

The DFSA's standard settlement discount is 30% where agreement is reached within the period specified by the DFSA, ordinarily 28 days; the DFSA may allow a longer period in exceptional cases. The discount applies to the financial-penalty component, not to an amount that specifically represents disgorgement of profit accrued or loss avoided (RPP 6-8-4). Separately, mitigation under the penalty methodology may reduce the pre-settlement figure, including for cooperation and remediation. Recent decision notices show that mitigation and the settlement discount can operate at different stages.

Settlement discussions may take place at any stage before or after formal enforcement begins, but the ordinary 28- day period is the discount window, not a statutory deadline for completing an investigation. Settled matters avoid the contested DMC/FMT route. In recent settled Decision Notices, the settling party has agreed not to exercise the statutory FMT referral right as a term of the settlement; the right itself is not extinguished by statute.

Decision-makers and qualification

The Settlement Decision Maker is a senior DFSA staff member who was not directly involved in establishing the evidence on which the proposed enforcement action is based. Settlement Decision Makers generally come from the same pool of staff as persons who may sit on the DMC, but a

Settlement Decision Maker who considered a matter that does not settle will generally not sit on the DMC for that matter. The RPP does not prescribe a publicly stated professional qualification threshold; its safeguard is functional independence from the evidentiary development of the case.

Always by way of order and publication

Yes – settled matters are documented as Decision Notices or Consent Orders, both formally published categories on the DFSA's Regulatory Actions register alongside contested Administrative Fines, Administrative Censures, Notices of Restriction/Suspension, and FMT decisions. The DFSA publishes the pre-discount and post-discount fine figures side by side in nearly every notice reviewed, giving unusually high transparency on the value of settlement.

Sources: DFSA Regulatory Actions register (dfsa.ae); Decision Notices – Peter Georgiou, Alessandro Faro Trading/Fius Capital, R.J. O'Brien (MENA) Capital, Ark Capital Management, Ed Broking (MENA), Sarwa Digital Wealth, Clements (Dubai) Limited, Mustafa Abdel-Wadood, Deutsche Bank AG DIFC branch.

4.7 Singapore – MAS

Legal basis and offences covered

The Securities and Futures Act (SFA) creates two distinct routes: (i) the civil penalty regime (s.232 SFA and related provisions), under which MAS may enter into a civil penalty settlement agreement to pay a sum without admission of liability, and (ii) composition, under which MAS may compound a compoundable criminal offence for a fixed composition sum (in lieu of prosecution), available for low-to-moderate seriousness misconduct. MAS's Enforcement Monograph is the primary public policy document describing this framework.

Is fraud subject to settlement?

The civil-penalty route under s.232 applies to specified market-conduct contraventions and is distinct from criminal prosecution. The statutory civil-penalty ceiling is the greater of three times the profit gained or loss avoided and S\$2 million, with statutory minimums of S\$100,000 for a corporation and S\$50,000 for another person; s.232(4) permits a court consent order with or without admission, and s.232(5) permits MAS to agree directly on payment of a civil penalty with or without admission of liability. Composition is a separate criminal-law mechanism for compoundable offences.

Process, timeline and discount mechanism

For civil penalties, the direct s.232(5) agreement route does not require judicial endorsement; the alternative s.232(4) route is a court consent order. There is no FCA/SFC-style time-tiered percentage discount. The agreed civil penalty must remain within the statutory limits. Composition is separate and is tied to the prescribed composition framework rather than a published settlement-discount ladder.

MAS's published quarterly enforcement updates show composition penalties running from the low hundreds of thousands (e.g., S\$960,000 across five payment institutions in Q2 2025) up to tens of millions for systemic AML failures (S\$27.45 million across nine institutions in the 2023 money-laundering case), indicating the range of matters resolved via settlement/composition.

Decision-makers and qualification

No standing external settlement committee; enforcement/settlement decisions are made within MAS's Enforcement Department, escalating internally for high-value or high-profile matters (no statutory external panel, unlike SEBI's HPAC or Canada's Tribunal).

Always by way of order? Publication

Not uniformly – many outcomes take the form of a civil penalty settlement agreement or a composition notice rather than a formal “order.” MAS exercises discretion over which enforcement actions to publish (it does not publish every action), considering the public-interest value of disclosure case by case; where published, MAS sets out the salient facts, circumstances, and the enforcement action taken.

Sources: MAS Enforcement Monograph (2018, 2022, 2025 editions); MAS Enforcement Reports and quarterly enforcement-action releases; Lexology “Spotlight: public enforcement against securities market misconduct in Singapore”; Charltons Quantum and Clyde & Co briefings.

4.8 Australia – ASIC**Legal basis and offences covered**

ASIC does not operate a “settlement” mechanism in the SEBI/FCA sense; instead it relies on two principal negotiated/administrative tools: (i) Court Enforceable Undertakings (EUs) under s.93A/93AA of the ASIC Act (and equivalent provisions in other administered legislation), and (ii) Infringement Notices, a statutory administrative penalty tool for specified lower-level

provisions (continuous disclosure breaches, market integrity rule breaches, and similar). ASIC also negotiates lower-tier “other negotiated outcomes” (e.g., corrective-disclosure letters) that are not formally tracked in a public register.

Is fraud subject to settlement?

EUs are used even in serious matters (they can require substantial compensation and operational change, enforceable through the Federal Court) but are not available as an alternative where ASIC considers criminal prosecution appropriate. Infringement notices are confined by statute to specified, generally lower-level provisions and are not used for serious fraud.

Process, timeline, and discount mechanism

Infringement notices must be issued within 12 months of the alleged contravention; the recipient has 28 days to apply for withdrawal, extension, or to dispute; payment is not an admission of guilt, and if unpaid, ASIC generally pursues court action (where a court may impose a higher penalty than the notice amount) — creating an implicit, though unquantified, incentive to pay early rather than litigate. There is no percentage “discount” as such since the infringement notice amount is fixed by the legislation.

EUs typically take considerably longer to negotiate given their substantive undertakings (process/compliance overhauls, compensation schemes), but are explicitly framed by ASIC as “not a soft option,” often requiring more onerous remediation than a fixed penalty would.

Decision-makers and qualification

ASIC itself (delegated Commissioners/senior investigators) accepts EUs. Infringement notices for market integrity rule breaches specifically are issued by the Markets Disciplinary Panel (MDP) — an independent, part-time peer-review panel drawn from market practitioners and former regulators, distinct from ASIC’s own investigative staff, which decides whether an infringement notice should issue.

Always by way of order? Publication

Neither an EU nor an infringement notice is a court “order” in the adjudicative sense; an EU is a registered undertaking enforceable in the Federal Court if breached, and an infringement notice is a notice. ASIC maintains two dedicated public registers — the Court Enforceable Undertakings Register and the Infringement Notices Register — publishing the underlying document and an accompanying media release for each.

Sources: ASIC Information Sheets 28, 73, 145, 151, 216; ASIC Court Enforceable Undertakings Register and Infringement Notices Register; Australian National Audit Office, “Administration of Enforceable Undertakings”; Duke FinReg Blog, “Rise and Fall...of Infringement Notices”.

4.9 Canada — Ontario Securities Commission (OSC) / Canadian Securities Administrators (CSA)

Legal basis and offences covered

Under the Securities Act (Ontario) s.127 (and equivalents in other provinces), OSC Staff and a respondent may agree a settlement agreement, which must be approved by the Commission (now the Capital Markets Tribunal, following Ontario’s 2021 restructuring separating adjudicative and regulatory functions) at a public hearing, following a confidential settlement conference. Since 2014, the OSC additionally operates a No-Contest Settlement policy, allowing resolution without the respondent admitting or denying factual findings — modelled partly on, and explicitly benchmarked against, SEC practice.

Is fraud subject to settlement?

Standard (admission-based) settlement agreements do cover fraud and dishonest conduct, with the respondent admitting to the relevant facts/ breaches. No-contest settlements, by contrast, are explicitly unavailable where the respondent’s conduct involved fraud, other dishonest conduct, or conduct that put market integrity at risk, and have in practice been reserved mainly for large institutional respondents with control/supervisory (not intentional) failings — e.g., the IPC Securities/IPC Investment no-contest settlement (over \$10.97 million in investor compensation) for control and supervision inadequacies, expressly noting no evidence of dishonest conduct.

Process and timeline

OSC Staff and the respondent negotiate; the agreement is presented to a Tribunal hearing panel, which can approve, reject, or (rarely) request modification; hearings are public though the preceding settlement conference is confidential (without-prejudice). Timelines vary; multi-institution/cross-border cases (e.g., the ABCP settlement, coordinated with IIROC) took considerably longer given the scale of restructuring involved.

Discount mechanism

No formal percentage-discount scheme; the negotiated sanction is implicitly lower than what a fully contested proceeding might yield, reflecting the respondent’s cooperation, self-reporting, and remedial steps (as in IPC,

where self-reporting in 2015 and prompt remediation were expressly credited by the hearing panel).

Single or multiple settlements?

No express numeric cap; each matter is assessed on its own facts, though a respondent's settlement/enforcement history is relevant context for the panel.

Decision-makers and qualification

A Hearing Panel of Ontario's Capital Markets Tribunal – Tribunal members are provincial government appointees, typically senior securities lawyers, retired judges, academics or industry experts, operating independently of OSC Staff (the investigating/prosecuting arm) – must approve every settlement agreement at a public hearing.

Always by way of order? Publication; reciprocity

Yes – approved settlements are issued as a Tribunal/Commission order and published, together with the Tribunal's oral or written reasons for approval. Canada also has an inter-provincial reciprocal-enforcement mechanism: sanctions or settlement agreements from one Canadian securities regulator automatically apply in Ontario (without a fresh hearing) to the extent Ontario could have imposed an equivalent sanction itself – a useful design reference for any future IFSCA-SEBI or IFSCA-other-IFSC reciprocity provision.

Sources: OSC "No-Contest Settlements and the SEC's Recent Experience"; OSC news release, IPC Securities/IPC Investment no-contest settlement; Investment Executive commentary; OSC "Automatically reciprocated orders and settlement agreements"; OSC/IIROC ABCP settlement distribution filings; Capital Markets Tribunal settlement agreement, BMO Nesbitt Burns.

4.10 Brazil – CVM (Comissão de Valores Mobiliários)

Legal basis and offences covered

The termo de compromisso was introduced into Brazilian capital-markets law by Law 9,457/1997, amending Law 6,385/1976 (the foundational Capital Markets Law), specifically Article 11 §5. It is further regulated by CVM Resolution (RCVM) 45. It applies across the CVM's administrative sanctioning jurisdiction, including disclosure violations, insider trading, and market manipulation.

Is fraud subject to settlement?

Yes – including insider trading. A prominent example is a CVM settlement exceeding BRL 20 million with a company chairman over alleged insider

trading ahead of a material-fact disclosure; more recently, the 2026 XP Investimentos/Guilherme Benchimol settlement (BRL 1.485 million) closed a long-running administrative case that began after XP self-reported irregularities. Under Article 81 of RCVM 45, execution of a Termo de Compromisso expressly does not imply confession of the facts nor recognition of unlawful conduct – a strong no-admission protection, commonly used as a defence strategy precisely because it avoids an official adverse finding.

Process and timeline

A settlement proposal can be made either in the pre-sanctioning phase or after the term of has been presented by the CVM – i.e., at essentially any stage before a final merits decision. The Committee for Settlement Agreements reviews and negotiates the proposal and recommends monetary (and sometimes non-monetary) obligations to the CVM's Collegiate Board, which must formally accept the proposal. Reported cases show monetary obligations ranging from roughly R\$21,000 to R\$597,000 for disclosure-related breaches, and into the tens of millions for insider-trading matters, reflecting a case-by-case negotiated approach with no fixed formula.

Discount mechanism and decision-makers

No fixed percentage discount is published; the obligation is negotiated by the CTC based on the specifics of the case (nature of default, damage caused, cooperation) and then accepted, rejected, or renegotiated by the Collegiado – CVM's five-member board of Commissioners (President plus four Directors), appointed by the President of Brazil and confirmed by the Senate.

Always by way of order? Publication and enforceability

Yes – the Termo de Compromisso is itself a formal instrument, published in the Official Federal Gazette once executed, so that it takes legal effect. If the obligor fails to comply, the instrument itself becomes an extrajudicial enforcement title under Article 11 of Law 6,385/76, and the CVM's original administrative sanctioning process, resumes against the defaulting party – a strong, self-executing compliance-enforcement design worth considering for IFSCA.

Sources: Law 6,385/1976 art.11 §5 (as amended by Law 9,457/1997); CVM Resolution (RCVM) 45; Rio Times Online (XP Investimentos settlement, 2026); Machado Meyer and L.O. Baptista Advogados client briefings; Migalhas legal commentary; CVM published Termos de Compromisso (PAS 09/08, PAS 19/06).

4.11 China — CSRC (China Securities Regulatory Commission)

Legal basis and offences covered

China has no unified statutory settlement regime; “administrative reconciliation” was flagged as a policy direction by the State Council and CPC Central Committee General Office as early as 2006. The CSRC formally began piloting an administrative settlement system in the securities and futures field in February 2015, under State-Council-approved “Measures for the Implementation of Administrative Settlement Pilot,” together with interim measures (jointly with the Ministry of Finance) for the administration of administrative settlement funds.

Is fraud subject to settlement?

The best-known publicly documented settlement case in the materials reviewed is the April 2019 settlement between the CSRC and nine parties including Goldman Sachs (Asia) L.L.C. and Gao Hua Securities, concerning proprietary trading and business-guidance conduct across 2013-2015. The settlement required RMB 150 million into the administrative settlement fund and remedial measures, and terminated the ongoing enforcement process. The public record reviewed does not support describing the mechanism as a mature, routinely used settlement tariff; it remains a narrow, discretionary administrative-settlement model whose use and precedent are materially more limited than the SEBI/FCA/SEC models.

Process, decision-makers, and publication

The Measures specify the scope/conditions for eligibility, the settlement consultation process, signing, implementation, and supervision of the agreement, and the determination, management, and use of settlement funds — administered jointly by the CSRC (case handling) and Ministry of Finance (fund administration), with State Council-level policy oversight, but no independent, publicly-named settlement panel akin to SEBI’s HPAC or Canada’s Tribunal. Settlement outcomes are disclosed as part of CSRC case announcements.

Relevance for IFSCA design

China illustrates a settlement mechanism introduced by an active-market, high-volume regulator but deliberately kept narrow, discretionary, and slow to develop precedent — a cautious, pilot-first model, in contrast to the immediately codified 2018-style regime SEBI adopted, or the long-standing FCA/SEC frameworks.

Sources: Lexology “*Spotlight: public enforcement against securities market misconduct in China*”; CSRC (csrc.gov.cn) – “*Exploring New Model of Administrative Reconciliation in Regulation and Enforcement*,” bylined article by then-Chairman Xiao Gang.

4.12 Japan (Tokyo) – JFSA / SESC

Legal basis and offences covered

Under the Financial Instruments and Exchange Act, the Securities and Exchange Surveillance Commission (SESC) – an independent body under the JFSA, empowered by Diet-approved appointment of its Chairman and two Commissioners – investigates suspected market misconduct (insider trading, false disclosure, market manipulation) and recommends to the FSA Commissioner whether an administrative monetary penalty order should issue, and in what amount.

Is there a true settlement mechanism? Is fraud subject to it?

No. Japan does not have a negotiated settlement mechanism in the SEBI/FCA/SEC sense. A respondent may submit a written answer acknowledging the violation and accepting the SESC-recommended penalty amount, in which case the formal administrative hearing/proceeding is not convened (an accelerated, non-adversarial route) – but this acknowledgment is explicitly not treated as a “settlement”: the respondent is still sanctioned at the recommended (not negotiated-down) amount, since the administrative monetary penalty is a fixed statutory calculation, not a matter for negotiation. Once criminal proceedings are instituted, there is likewise no settlement – the case must proceed to judgment.

Relevance for IFSCA design

Japan is a useful contrast: a highly developed capital market with a codified, formulaic (not negotiated) penalty regime and an efficient “fast-track acknowledgment” option that captures some of the speed benefit of settlement (avoiding a full hearing) without any actual discount, discretion, or negotiated leeway – an alternative design philosophy IFSCA could weigh against the discount-based Anglo-American/Hong Kong/Dubai model.

Sources: Lexology “*Spotlight: public enforcement against securities market misconduct in Japan*”; JFSA/SESC press releases (e.g., *Nomura Securities JGB futures market-manipulation case*, 2024); *Chambers and Partners, Financial Services Regulation 2025 - Japan*.

4.13 Switzerland (Zurich) – FINMA

Legal basis and offences covered; is there a settlement mechanism?

No. FINMA (the Swiss Financial Market Supervisory Authority) has confirmed expressly that “the Swiss regulatory framework does not provide for a proper settlement procedure.” Critically, FINMA has no statutory power to impose fines at all – its enforcement toolkit is confined to administrative/supervisory measures: declaratory rulings that a violation of law occurred, industry/professional bans, disgorgement of illegally-generated profits, licence revocation, and – for the most serious cases – restructuring, liquidation, or bankruptcy proceedings for the supervised entity. FINMA does not conduct criminal proceedings; where it identifies a possible crime, it refers the matter to the Federal Department of Finance (for administrative criminal law) or the Office of the Attorney General (for insider trading/market manipulation, which are true criminal offences in Switzerland).

Is fraud subject to any negotiated resolution?

Not through FINMA directly. FINMA enforcement rulings are unilateral, appealable to the Federal Administrative Court and ultimately the Federal Supreme Court. In practice, a supervised entity under FINMA investigation will make reasonable remedial efforts during the proceeding to mitigate the ultimate measure – a form of informal, unstructured negotiation over remediation, but not over a fine (since none can be imposed) and not codified as “settlement.” Separately, FINMA may appoint an independent investigating agent, auditing agent, restructuring agent, crisis manager, or liquidator as part of enforcement – a monitor-like tool, but again not a settlement.

Publication

FINMA rulings, where proportionate, are published (a form of “naming and shaming”), though details are frequently anonymised, particularly for individuals, reflecting Swiss data-protection norms.

Relevance for IFSCA design

Switzerland (and by extension its financial capital, Zurich) represents the most conservative end of the spectrum studied: no negotiated fines, no settlement committee, no discount – because there is no fining power to negotiate over in the first place. This is a structural, not merely policy, difference from IFSCA’s context (where a settlement mechanism is specifically sought), but is valuable as the clearest “non-settlement” reference point in the comparative set.

Sources: FINMA “FINMA and law enforcement” and “Enforcing supervisory law” ([finma.ch](https://www.finma.ch)); Lexology “Enforcement of financial services regulations in Switzerland”; Global Investigations Review, Switzerland chapter; Goldblum “FINMA Explained”.

4.14 Germany (Frankfurt) – BaFin

Legal basis and offences covered; is there a settlement mechanism?

BaFin issues administrative fine notices unilaterally under the German Act on Regulatory Offences read with the relevant sector statute (e.g., the Securities Trading Act, WpHG, for market-abuse and disclosure breaches). BaFin has published its own WpHG Administrative Fine Guidelines (2017) setting out a two-step calculation methodology – a base amount reflecting the severity of the offence, then adjustment for aggravating/mitigating, offender-specific factors including post-offence cooperative behaviour during BaFin’s investigation. This is a structured discretion framework, not a settlement mechanism, since BaFin does not negotiate the fine with the party before issuing the notice.

Where does anything resembling settlement occur?

Only at the court-appeal stage, after BaFin’s fine notice is challenged before the Frankfurt Main Local Court, which has jurisdiction over BaFin OWiG matters. In such court proceedings, Section 77b OWiG allows the court to waive the requirement for a full reasoned judgment where the parties (and the participating public prosecutor’s office, which usually does not object) reach a court settlement – commonly used to achieve a faster, negotiated reduction in the fine than the original BaFin notice, precisely because the court (unfamiliar with the underlying complex regulatory issue) has its own institutional interest in a quick resolution.

Is fraud subject to settlement?

BaFin fines for market-abuse-type breaches (e.g., failure to report suspected insider dealing under Article 16(2) of the EU Market Abuse Regulation, as in the 2022 Landesbank Baden-Württemberg fine) are issued unilaterally; any “settlement” reduction is only available if and once the matter proceeds to a court appeal, i.e., it is not a BaFin-stage settlement mechanism as such but a judicial one.

Publication

BaFin publishes administrative fine notices under Section 40c WpHG on its website once they become final and binding (i.e., generally after any appeal

is resolved or the appeal period lapses), naming the entity and the breach (e.g., BNP Paribas S.A., Landesbank Baden-Württemberg).

Relevance for IFSCA design

Germany illustrates a third structural model: a unilateral-fine regulator whose only negotiated/settlement-like resolution occurs downstream, at the judicial-appeal stage, rather than within the regulator's own process – relevant if IFSCA were to consider a hybrid design where settlement is available at the appellate/tribunal stage as well as (or instead of) at IFSCA's own enforcement stage.

Sources: BaFin “Measures & sanctions” notices (Landesbank Baden-Württemberg, BNP Paribas S.A.); BaFin WpHG Administrative Fine Guidelines II (2017); ADVANT Beiten, “Successfully reducing BaFin fines through appeal”; Dr. Buchert, “Administrative offences and fine proceedings in Germany”.

5. Thematic Analysis – Answering Twelve Core Questions on Settlement comparison

5.1 Which jurisdictions have a formal settlement mechanism?

A codified, named settlement mechanism with defined stages exists in: India (SEBI), the United States (SEC), the United Kingdom (FCA and PRA separately), Hong Kong (SFC, via s.201 SFO agreements), Dubai/DIFC (DFSA), Singapore (MAS civil penalty settlements and composition), Canada (OSC and other provincial regulators – settlement agreements and no-contest settlements), Brazil (CVM's termo de compromisso), and China (CSRC's administrative settlement pilot, narrower in scope and usage). Australia's ASIC has negotiated tools (Enforceable Undertakings, Infringement Notices) that function similarly but are not styled as “settlement.” Luxembourg (CSSF), Switzerland (FINMA), Japan (JFSA/SESC) and, at the regulator-stage, Germany (BaFin) do not have a formal settlement mechanism for administrative/regulatory sanctions – Germany's only settlement-like feature arises later, at court-appealstage.

5.2 Types of offences allowed under settlement mechanisms

The dominant modern approach (SEBI 2018, FCA, SFC, DFSA, MAS, CVM) is to allow settlement across the great majority of regulatory offence types – including fraud, insider trading, and market manipulation – subject to a discretionary bar for the most serious, market-wide, or systemically damaging conduct, rather than a blanket category-based exclusion. SEBI's

shift from a blanket bar (2014 Regulations) to a facts-and-impact test (2018 Regulations) — excluding only defaults with market-wide impact, large-scale investor loss, or market-integrity effects is the clearest and most directly transplantable precedent for IFSCA, since it balances deterrence against efficient case resolution. Canada’s no-contest settlement track is the one clear example of a category-based exclusion still in active use (fraud/dishonest conduct barred from no-contest, though available under standard admission-based settlement).

5.3 Length of the settlement process

Timelines cluster into three bands across the jurisdictions studied: (a) fast-track, weeks-to-months — FCA/PRA Stage 1 (28 days), SFC pre-investigation settlements, DFSA settlements in straightforward cases, ASIC infringement notices (28-day response window); (b) moderate, several months to about two years — SEBI (weeks to ~12 months for most matters), SEC, MAS civil penalty settlements, OSC settlement agreements, CVM *termos de compromisso*; and (c) slow/exceptional — CSRC’s pilot mechanism (four years from pilot launch to the first successful settlement), and any ASIC Enforceable Undertaking involving substantial remediation design. As a design principle, the tiered-discount jurisdictions (FCA, SFC, DFSA) demonstrate that the discount schedule itself is the single most effective lever for compressing timelines, since it makes early resolution financially rational for the regulated entity.

5.4 The discount mechanism, and how many jurisdictions support it

A transparent, published, time-tiered percentage discount exists in three of the fourteen jurisdictions studied in a directly comparable form: the UK (FCA 30/20/10%; PRA up to 50%), Hong Kong (SFC 30/20/10%, an almost exact replica of the FCA model), and Dubai (DFSA, up to 30% early-settlement discount, plus a separately-recognised mitigation discount that can be combined with it). Singapore’s composition regime achieves an implicit discount by fixing the composition sum with reference to (and below) the prescribed statutory fine, but does not publish a percentage schedule. SEBI, the SEC, Canada, and Brazil all negotiate a settlement amount that is understood to be lower than the maximum contested exposure, but none publishes a transparent percentage ladder — the reduction is embedded in the negotiated outcome rather than disclosed as a standalone number. Luxembourg, Switzerland, Japan, and (at the regulator stage) Germany have no discount mechanism, consistent with their absence of a settlement mechanism altogether.

5.5 Broad settlement process, jurisdiction-wise, and single vs. multiple settlements

See Part 4 for the detailed process narrative per jurisdiction, and the Master Comparison Table (Part 3) for a side-by-side summary. On repeat settlement: SEBI is the only jurisdiction studied with an explicit, graduated numeric look-back bar (2 years after one settlement; 3 years after more than two) – a design feature not replicated, in codified form, anywhere else in this study, though most other regulators treat a respondent's settlement/enforcement history as an aggravating factor in subsequent matters rather than an automatic bar. This makes SEBI's approach a genuinely distinctive and exportable design choice for IFSCA to consider retaining or refining (e.g., tying the look-back period to the nature/severity of the prior default rather than a flat count).

5.6 Settlement committee members and appointment/qualification criteria

SEBI's High Powered Advisory Committee (predominantly retired judges, regulators, and eminent persons in law/finance) and Canada's Capital Markets Tribunal (government-appointed senior securities lawyers, academics, and former regulators) are the two clearest examples of a genuinely independent, externally-staffed settlement/approval body in this study. The FCA (Settlement Decision Makers; RDC) and DFSA (Settlement Decision Maker) achieve independence through internal separation from the case team rather than external membership. Most other regulators (SFC, MAS, ASIC for EUs, CVM's CTC, CSRC) rely on internal senior-management sign-off, with independent review available only on appeal (SFAT in Hong Kong; Federal Court/AAT-equivalent bodies elsewhere). No jurisdiction studied publishes detailed, codified statutory eligibility criteria (e.g., minimum years of experience, specific professional qualifications) for settlement-committee members – appointments are uniformly administrative/discretionary, which is itself a finding IFSCA should weigh: if IFSCA wishes to set a higher transparency bar than the international norm, codifying eligibility criteria for its own settlement panel would be a genuine point of differentiation rather than mere replication.

5.7 Who is authorised to give leeway on the penalty?

In every mechanism studied, penalty leeway is a two-step function: a negotiating/recommending body (SEBI's HPAC; SEC's Division of Enforcement; FCA's case team; SFC's Enforcement Division; DFSA's case team feeding into

the Settlement Decision Maker; MAS's Enforcement Department; CVM's CTC) proposes terms, and a separate, more senior approval body (SEBI's Panel of Whole Time Members; SEC Commissioners; FCA Settlement Decision Makers/RDC; the DFSA Settlement Decision Maker; MAS senior management; CVM's Collegiado; the OSC/Capital Markets Tribunal hearing panel) has final authority to accept, modify, or reject. This two-step separation of negotiation from final approval is close to universal among the codified-mechanism jurisdictions and should be treated as a near non-negotiable design feature for IFSCA, both for institutional integrity and for defensibility on judicial review.

5.8 Are all settlements by way of order?

Yes, in the great majority of codified-mechanism jurisdictions: SEBI (settlement order), SEC (order instituting proceedings / consent judgment), FCA/PRA (Final Notice), SFC (agreement recorded/Statement of Disciplinary Action), DFSA (Decision Notice/Consent Order), Canada (Tribunal-approved settlement agreement/order), Brazil (the Termo de Compromisso is itself the operative instrument, gazetted). The exceptions are Singapore (civil penalty settlement agreements and composition notices are not always styled as "orders") and Australia (Enforceable Undertakings are registered undertakings, not orders, though enforceable through the Federal Court if breached; Infringement Notices are notices). This is a material design choice: an "order" carries stronger legal/precedential weight and is more straightforwardly enforceable and appealable than an "agreement" or "notice," which argues in favour of IFSCA adopting an order-based settlement instrument, consistent with SEBI's approach.

5.9 Publication rules, jurisdiction-wise

Publication of the settlement outcome (not merely a summary) is the norm across essentially all codified-mechanism jurisdictions — SEBI, SEC, FCA/PRA, SFC, DFSA, Canada, Brazil (gazetted), and China (as part of case announcements) all publish settlement outcomes as a matter of course, in most cases including the identity of the settling party, the nature of the breach, and the amount paid (several — FCA, DFSA — additionally disclose the pre-discount amount alongside the settled amount, maximising transparency about the value of the discount itself). Singapore is the clearest exception: MAS exercises case-by-case discretion over whether to publish a given enforcement action, meaning some settlements remain unpublished. Luxembourg (CSSF), Switzerland (FINMA) and Germany (BaFin) publish their unilateral sanction decisions (not settlements, since none exist

at the regulator stage) but with more scope for anonymisation, particularly for individuals, reflecting stronger EU/Swiss data-protection norms than in the common-law jurisdictions studied.

5.10 How settlement works, under which regulations, and what offences are covered – summary

This is addressed comprehensively, jurisdiction-by-jurisdiction, in Part 4. In headline form: every codified mechanism operates under a dedicated regulatory instrument (SEBI's 2018 Regulations; the FCA's DEPP sourcebook; the SFC's

s.201 SFO power plus Guidance Note; the DFSA's Regulatory Law/RPP; MAS's SFA provisions; Brazil's Law 6,385/76 art. 11 §5 plus RCVM 45; China's 2015 pilot Measures) rather than ad hoc administrative practice, and each covers the regulator's full range of administrable offences subject to the fraud/seriousness carve-outs discussed in 5.2 above.

5.11 Is fraud subject to settlement? – Consolidated answer

Yes, in most of the mature jurisdictions studied – SEBI (conditionally, via the market-wide-impact test), SEC (routinely, via no-admit/no-deny consent), FCA/PRA (routinely), SFC (via civil-court/MMT settlement practice and, for less severe disciplinary fraud, s.201 agreements), DFSA (routinely – several of its largest settlements involve fraud-type deceptive conduct), MAS (civil, not criminal, fraud, via the civil penalty regime), and CVM (routinely, including insider trading). Fraud is generally not settleable, or the entire mechanism is unavailable, in: Luxembourg (no administrative settlement route at all), Switzerland (no fining power, hence nothing to settle), Japan (fixed statutory penalty, no negotiation), and Germany at the regulator stage (unilateral fine; settlement only possible later, judicially). Canada's no-contest settlement specifically excludes fraud/dishonest conduct, though its standard, admission-based settlement track does cover it. The clear majority pattern – and the one most consistent with SEBI's own 2018 reform – is a discretionary, impact-based exclusion rather than a blanket category-based bar.

5.12 How settlement happens – the operative mechanics

Across the codified-mechanism jurisdictions, the mechanics converge on a common sequence: (i) an application or proposal, initiated by the regulated party (SEBI, SEC, FCA, SFC, DFSA, CVM) – sometimes by the regulator itself opening a settlement dialogue (MAS, ASIC); (ii) without-prejudice

negotiation, with statements made during negotiation inadmissible in any subsequent contested proceeding if settlement fails (explicitly stated by the FCA and SFC, and implicit in most others); (iii) a recommendation from a negotiating/screening body; (iv) approval by a separate, more senior decision body; (v) execution of the settlement instrument, typically with no admission of the underlying violation (SEBI, SEC, CVM, Canada's no-contest track) or, conversely, with an express factual admission (Canada's standard settlement track, most FCA/SFC/DFSA cases); (vi) publication; and (vii) a compliance/enforceability backstop if the settling party defaults on agreed terms (SEBI's power to revoke the order; Brazil's automatic conversion of the Termo into an extrajudicial enforcement title).

6. Can Third Parties Pay the Settlement Amount on Behalf of the Guilty Party?

This is a genuinely under-documented area across the jurisdictions studied, and the key legal distinction is between (i) who remits the funds and (ii) who bears the economic/legal responsibility for the sanction. No general primary-source rule was identified that makes an affiliate bank transfer into the regulator's account inherently invalid where the named respondent remains the settling party. However, several regimes separately restrict reimbursement, indemnification or insurance of punitive sanctions. SEBI is particularly important: its settlement application undertaking expressly requires the applicant not to seek set-off, reimbursement by indemnification, insurance coverage, or other non-tax reimbursement of the settlement liability. The following observations, drawn from the pattern of practice rather than an express rule, are relevant to IFSCA's design choice:

- Corporate-group payment is common in practice, though rarely addressed as a distinct legal question: in several DFSA cases reviewed (and, more broadly, across FCA and SEC corporate settlements), the settling entity is a subsidiary or branch and the ultimate source of funds is frequently the parent group's treasury function — this is treated as an internal corporate-finance matter, not a regulatory question, provided the named respondent (the entity or individual actually found to have breached the law) is the one who executes the settlement instrument and bears legal responsibility for it.
- Indemnification and insurance for the underlying penalty is the more clearly regulated sub-question, and here several jurisdictions do intervene: UK company law and FCA/PRA policy (reflecting a long-standing UK public-policy position) generally treat it as improper,

and in some cases unlawful, for a company to indemnify a director against the financial consequences of a regulatory fine for their own misconduct (as distinct from legal defence costs, which may be indemnified); D&O (directors' and officers') insurance policies typically exclude cover for regulatory fines/penalties as a matter of market practice and, in some jurisdictions, as a matter of public policy (fines are not "insurable losses"), though they will usually cover defence costs and any compensatory (non- punitive) element.

- SEBI's Settlement Regulations do not expressly bar a third party from remitting the settlement amount, and in practice, corporate applicants routinely remit via ordinary corporate banking channels; the operative legal requirement is that the named applicant remains liable and accountable for the undertakings and terms of the settlement order, not that the applicant personally transfer the funds.
- Composition/civil penalty regimes that emphasise deterrence of the individual (Singapore's civil penalty actions against individuals; the SEC's individual accountability initiatives) implicitly discourage third-party payment as a matter of enforcement policy – regulators in these regimes have expressed concern, in general commentary (not case-specific rulings reviewed here), that if a firm systematically pays fines imposed on its individual employees, the deterrent effect of individual accountability is undermined; but this concern has not, on the evidence reviewed, crystallised into an express statutory prohibition in any of the fourteen jurisdictions studied.
- The safer comparative conclusion is therefore not that third-party funding is affirmatively permitted, but that the primary sources generally regulate the liability/indemnification consequences rather than the mechanics of who physically remits funds. For IFSCA, any rule should expressly distinguish affiliate remittance from reimbursement or indemnification of the respondent's sanction.

Recommendation for IFSCA: permit an affiliate or group treasury to make the remittance on behalf of a corporate settling party only if the order and settlement documentation state that the named applicant remains solely responsible for compliance with all settlement terms and that no reimbursement, indemnification, insurance recovery or other recourse may be sought to neutralise an individual sanction. For natural persons and individual misconduct, the regulations should expressly address indemnification/insurance/third-party discharge in a manner designed to

preserve personal accountability, while allowing ordinary legal-defence-cost arrangements where legally permissible.

7. Recommendations for the Design of the IFSCA Settlement Mechanism

Drawing on the comparative evidence in Parts 3-6, the following design recommendations are offered for IFSCA's consideration. They are structured to build on SEBI's 2018 Regulations as the most directly relevant and legally proximate template (given IFSCA's origin within the Indian regulatory family and its explicit statutory linkage to SEBI, RBI, IRDAI and PFRDA functions within the IFSC), while importing specific, tested refinements from the international regimes reviewed.

7.1 Legal architecture

- Adopt a dedicated IFSCA (Settlement of Proceedings) Regulations under the IFSCA Act, 2019, modelled structurally on the SEBI 2018 Regulations,
- Apply a discretionary, impact-based exclusion test (not a blanket category bar) for the most serious offences, following SEBI's 2018 approach: exclude only defaults that IFSCA determines have (i) a market-wide or system-wide impact, (ii) caused substantial loss to a large number of investors/policyholders/depositors, or (iii) affected the integrity of the IFSC market, together with a categorical bar for wilful defaulters, fugitive economic offenders, and applicants in default of fees/penalties already due.

7.2 Discount mechanism

- Adopt a transparent, published, time-tiered discount schedule along FCA/SFC/DFSA lines (e.g., a higher discount — 30%-equivalent — for settlement reached before a Show Cause Notice or within a defined early window after one issues; a mid-tier discount for settlement before written representations are concluded; a lower-tier discount up to issuance of a final show-cause/decision stage; nil thereafter). This is the single most internationally-validated lever for compressing settlement timelines and is presently the biggest transparency gap in SEBI's own regime (which negotiates an outcome without publishing a percentage ladder) — adopting a published schedule would give IFSCA an immediate, well-understood point of comparative advantage for GIFT City as a fast, transparent enforcement venue.

- Consider a separate, stackable mitigation credit (DFSA-style) for self-reporting, proactive remediation, and enforceable-undertaking-style commitments. Also consider a clearly defined fast-track/simplified route for specified low-risk matters, drawing on the August 2026 SEBI consultation proposal, but only after setting eligibility thresholds, aggregate monetary caps, publication standards and independent review safeguards.

7.3 Institutional design – decision-makers

- Have a single internal committee with internal and external members – while codifying, more explicitly than SEBI currently does, minimum eligibility criteria for Advisory Committee membership (e.g., minimum years of judicial, regulatory, or financial- market experience), addressing the one clear transparency gap identified across every jurisdiction studied in this report.
- Structurally separate the negotiating team from the final approving authority in every case, consistent with the near-universal practice identified earlier, both to protect institutional integrity and to strengthen the mechanism’s defensibility before the IFSCA appellate authority/Securities Appellate Tribunal or equivalent.

7.4 Repeat settlement / look-back bar

- Consider a graduated look-back rule modelled on SEBI, but treat it as a policy choice rather than an international norm. The comparison shows that many other regulators instead use prior misconduct as an aggravating or eligibility factor without a fixed statutory look-back. A severity-based rule may be preferable to a simple count- based bar for IFSCA.

7.5 Form, publication, and enforceability of the settlement

- Issue every settlement as a formal Settlement Order (not a mere “agreement” or “notice”), consistent with the majority international practice (Section 5.8) and with SEBI’s own approach, to maximise legal certainty and straightforward enforceability.
- Mandate publication of every settlement order on IFSCA’s website as a matter of course (subject only to narrow, defined carve-outs – e.g., where publication would compromise an ongoing related investigation), disclosing both the settled amount and, if a discount schedule is adopted per 7.2, the pre-discount amount – following

the DFSA/FCA transparency model, which is more informative to the market than simply disclosing the final figure.

- Adopt Brazil’s strong breach architecture as a model, but draft the consequence carefully: breach should permit recovery/enforcement of the settlement obligations and, where justified by the regulatory statute, restoration or continuation of the underlying proceeding after due process. Avoid describing this as an automatic “conversion” unless the enabling IFSCA legislation expressly creates that legal effect.

7.6 Third-party payment

- Codify an explicit position, since no reviewed jurisdiction currently does so clearly: permit corporate-group/affiliate funding of a corporate settlement, but expressly prohibit indemnification or third-party discharge of a penalty imposed on an individual for personal misconduct, to preserve individual accountability — a genuine opportunity for IFSCA to set an international best-practice standard rather than merely replicate an ambiguous status quo.

7.7 Consent/no-admission and evidentiary effect

- Retain SEBI’s approach of a settlement order carrying limited evidentiary value (not an admission binding the settling party in other proceedings), consistent with the SEC’s no-admit/no-deny practice and Brazil’s express no- confession rule — this is close to a universal feature among the mechanisms reviewed and is important to preserve the incentive to settle at all, while making settlement conditional (as SEBI already does) on full, truthful, and continuing cooperation, with revocation available for false disclosure or breach of terms.

CHAPTER-7

Salient features of SEBI's Proposed Settlement Scheme¹

The Securities and Exchange Board of India (SEBI) proposed a comprehensive overhaul of its settlement framework via a consultation paper released on August 14, 2026, aiming to reduce litigation, simplify calculations, and lower average settlement costs by roughly 50%. Salient features of the proposed changes are:

- **Pre-SCN Settlement Notice:** SEBI can issue a settlement notice before a formal show-cause notice (SCN) is served, giving entities 60 days to apply for a settlement (excluding cases with contemplated prosecution).
- **Fast-Track Settlement:** Rebranding the summary settlement procedure, the new fast-track route handles violation-based cases or those where the settlement amount does not exceed ₹10 lakh directly from the Internal Committee to Whole Time Members, skipping the High Powered Advisory Committee (HPAC).
- **Extended Post-SCN Timeline:** The window to file a settlement application after receiving an SCN increases from 60 days to 90 days.
- **Simplified Calculation & Removal of Charges:** The formula for the settlement amount is streamlined based on a base amount multiplied by stage, gravity, and history. The additional 20% charge for settling multiple proceedings together is eliminated.
- **Relaxation on Non-Monetary Terms (NMTs):** Adjudication matters may now be settled without NMTs, and severe NMTs like voluntary debarment are restricted primarily to repeat offenders or grave violations.

1. Referenced from <https://www.livelaw.in/articles/sebi-proposed-settlement-regulations2026-rational-predictable-effective-settlement-regime-546173> and <https://www.livemint.com/money/personal-finance/sebi-proposes-major-overhaul-of-settlement-rules-fast-track-route-for-cases-up-to-rs-10-lakh-11786725137037.html> and <https://corporate.cyrilamarchandblogs.com/2026/08/a-new-chapter-in-settlement-regime-a-closer-look-at-the-draft-settlement-regulations-2026/>

- **Re-applications:** Applicants with previously rejected settlement proposals gain the flexibility to resubmit with modified terms
- **Public Feedback:** Stakeholder and public comments on these proposed draft regulations are open until September 4, 2026.

CHAPTER-8

Suggested draft of the new IFSCA Settlement Regulations

INTERNATIONAL FINANCIAL SERVICES CENTRES AUTHORITY

NOTIFICATION

Gandhinagar, the [] day of [], 2026

No. IFSCA/2026-27/GN/REG[]

**International Financial Services Centres Authority
(Settlement of Administrative and Civil Proceedings) Regulations, 2026.**

In exercise of the powers conferred by sub-sections (4) and (7) of section 13 read with section 28 of the International Financial Services Centres Authority Act, 2019 (50 of 2019), and of all other powers enabling it in that behalf, the International Financial Services Centres Authority hereby makes the following regulations, namely:

CHAPTER I

PRELIMINARY

1. Short title and commencement

(1) These regulations may be called the International Financial Services Centres Authority (Settlement of Administrative and Civil Proceedings) Regulations, 2026.

(2) They shall come into force on the thirtieth day from the date of their publication in the Official Gazette.

2. Definitions

(1) In these regulations, unless the context otherwise requires:

- (a) “Act” means the International Financial Services Centres Authority Act, 2019 (50 of 2019);
- (b) “adjudicating authority” means the Quasi-Judicial Authority for Enforcement, or any other officer or authority of the Authority empowered to adjudicate the specified proceedings;

- (c) “applicant” means a person who files an application under regulation 4;
- (d) “conduct class” means a class of alleged defaults specified in Schedule II;
- (e) “designated account” means the foreign currency account of the Authority designated for the purposes of these regulations;
- (f) “enforceable undertaking” means an undertaking accepted under Chapter X;
- (g) “excluded category” means a category of alleged defaults specified in Part A of Schedule III;
- (h) “focused resolution agreement” means an agreement under Chapter IX;
- (i) “Panel” means the Independent Settlement Panel constituted under regulation 21;
- (j) “settlement amount” means the sum payable under a settlement order in resolution of specified proceedings, computed in accordance with Schedule I;

Explanation: The settlement amount is remedial in character and is paid in resolution of proceedings; it is not a penalty or a fine imposed upon adjudication.

- (k) “settlement order” means an order passed under regulation 25;
 - (l) “Settlement Division” means the division constituted under regulation 20;
 - (m) “show cause notice” means a notice to show cause issued in, or for the initiation of, specified proceedings;
 - (n) “specified proceedings” means administrative or civil proceedings that have been initiated, or that may be initiated, by or before the Authority or an adjudicating authority in respect of an alleged default under the Act, the enactments specified in the First Schedule to the Act as they apply in the International Financial Services Centre, or the regulations, circulars or directions made or issued thereunder.
- (2) Words and expressions used and not defined in these regulations shall have the meanings respectively assigned to them in the Act or in the enactments specified in the First Schedule to the Act.

CHAPTER II

SCOPE AND ELIGIBILITY

3. Applicability

(1) These regulations apply to the settlement of specified proceedings in respect of any alleged default, whether the default relates to banking, capital markets, insurance, pensions, funds or any other financial product, financial service or financial institution in the International Financial Services Centre.

(2) In respect of specified proceedings pending on the date of commencement of these regulations, an application may be filed within sixty days of such commencement, and the stage discount under regulation 17 shall be reckoned as if the show cause notice had been served on the date of commencement.

4. Who may apply

(1) Any person against whom specified proceedings have been initiated may file an application for settlement.

(2) A person who has committed, or apprehends the allegation of, a default may file an application before the issuance of a show cause notice, and such application shall be dealt with as an application at stage one.

5. Bars to application

No application shall be entertained where the applicant:

- (a) has been categorised as a wilful defaulter under any norms of the Reserve Bank of India or of the Authority;
- (b) is a fugitive economic offender under the Fugitive Economic Offenders Act, 2018 (17 of 2018);
- (c) is in default of a settlement order or an enforceable undertaking;
- (d) has, in respect of the same cause, had an earlier application rejected on merits or withdrawn after the Panel stage, save that one further application may be entertained with the leave of the Panel for reasons to be recorded; or
- (e) files the application after the specified proceedings have been reserved for orders.

6. Excluded categories

- (1) An alleged default falling within an excluded category specified in Part A of Schedule III shall not ordinarily be settled.
- (2) The Panel may nevertheless entertain such an application, for reasons to be recorded in writing, having regard to the factors specified in Part B of Schedule III.
- (3) Every refusal to entertain or to accept an application, whether under this regulation or otherwise, shall be by a reasoned order communicated to the applicant.

CHAPTER III PROCEDURE

7. Form and fee

- (1) An application shall be filed with the Settlement Division in Form A of Schedule IV, accompanied by a non-refundable fee of USD [1,000], and shall contain a full and true disclosure of the facts and of all proceedings, in India or elsewhere, arising from the same cause.
- (2) The application shall state the conduct class into which, in the assessment of the applicant, the alleged default falls, without prejudice to the determination of the class by the Settlement Division.

8. Time for application

- (1) An application in respect of proceedings initiated by a show cause notice shall be filed within sixty days of the service of the notice.
- (2) The Settlement Division may, on sufficient cause shown and on payment of an additional fee of USD [500], extend the time by a further period not exceeding thirty days.

9. Effect of application

- (1) On registration of an application, the adjudicating authority shall not pass a final order in the specified proceedings until the application is disposed of, withdrawn or deemed to have lapsed.
- (2) The period from registration to disposal, withdrawal or lapse shall stand excluded in computing any period of limitation applicable to the specified proceedings.

10. Scrutiny

The Settlement Division shall, within fifteen days of filing, either register the application or return it with a deficiency memo, and an application re-filed within fifteen days of return shall retain its original date for the purposes of regulation 17.

11. Negotiation

(1) The Settlement Division shall convene one or more meetings with the applicant and shall, within forty-five days of registration, settle draft consent terms recording the alleged default, the conduct class, the computation under Schedule I including the counterfactual amount, the admission to be made, and the non-monetary terms, if any.

(2) The draft consent terms shall be in Form B of Schedule IV and shall be signed by the applicant before submission to the Panel.

12. Recommendation

The Settlement Division shall, within fifteen days of the signing of the draft consent terms, place before the Panel a reasoned recommendation to accept or to reject the terms.

13. Decision of the Panel

(1) The Panel shall, within thirty days of receipt of the recommendation:

- (a) accept the draft consent terms;
- (b) reject the application by a reasoned order; or
- (c) return the terms with a modification offer, which the applicant may accept within fifteen days, failing which the application shall stand rejected.

(2) The Panel shall not be bound by the recommendation of the Settlement Division.

14. Cooling-off and withdrawal

(1) The applicant may withdraw the application at any time before the settlement order is passed.

(2) Where the Panel accepts the terms, the applicant shall have fifteen days from communication of acceptance within which to withdraw without prejudice, and no payment shall be demanded, and no settlement order shall be passed, before the expiry of that period.

15. Time limits and deemed lapse

- (1) The aggregate period from registration of the application to the passing of the settlement order shall not exceed one hundred and sixty-five days, excluding the cooling-off period and any period of delay attributable to the applicant.
- (2) Where any time limit prescribed for the Settlement Division or the Panel is exceeded, the applicant may elect to treat the application as having lapsed, whereupon the fee shall be refunded in full, and an application re-filed within thirty days of such lapse shall be reckoned, for the purposes of regulation 17, as at the date of the original application.
- (3) Nothing in these regulations shall be construed as providing for the deemed acceptance of any application or of any terms.

CHAPTER IV

TERMS OF SETTLEMENT

16. Settlement amount

- (1) The settlement amount shall be computed in accordance with Schedule I and shall comprise:
 - (a) the disgorgement of the benefit made or loss avoided, together with interest thereon, which shall not be subject to any discount; and
 - (b) the indicative amount, to which alone the discount under regulation 17 shall apply.
- (2) The settlement amount shall in no case be less than the disgorgement together with interest computed under Schedule I.

17. Stage discount

- (1) The indicative amount shall be reduced:
 - (a) by thirty per cent, where the application is filed under regulation 4(2) or within the time specified in regulation 8(1); and
 - (b) by fifteen per cent, where the application is filed thereafter but before the conclusion of the hearing in the specified proceedings.
- (2) No discount shall be available where the application is filed after the specified proceedings have been reserved for orders.
- (3) Where a settlement order has been passed against the applicant in

respect of any default within the preceding thirty-six months, the discount otherwise available shall stand reduced by half.

18. Admission

(1) The admission required of the applicant shall be that specified for the applicable conduct class in Schedule II, and shall be recorded in the consent terms and in the settlement order.

(2) An application in respect of a default in conduct class D shall be subject to regulation 39.

19. Non-monetary terms

The consent terms may include, in addition to or in lieu of the settlement amount, one or more of the following: restitution or disgorgement to identified persons; an enforceable undertaking; a review of systems and controls by an independent reviewer at the cost of the applicant; a voluntary abstention from acting as a director or key managerial person for a stated period; enhanced reporting or compliance measures; and such other terms as the Panel considers necessary in the interest of the financial consumers or the orderly development of the Centre.

CHAPTER V

DECISION ARCHITECTURE

20. Settlement Division

(1) The Authority shall constitute a Settlement Division of such officers as it may designate.

(2) No officer who has been associated with the investigation, inspection or prosecution of the matter shall deal with the application in the Settlement Division.

21. Independent Settlement Panel

(1) The Authority shall maintain a standing list of persons from which a Panel of three shall be drawn for each application, comprising two persons who are or have been a persons of ability, integrity and standing in the fields of financial services, law or accountancy.

(2) A person shall be appointed to the standing list for a term of three years, which shall not be renewable.

22. Disqualification and recusal

A person shall not sit on a Panel in respect of an application if that person has been associated with the matter in any capacity or is a member of the bench of the adjudicating authority seized of the specified proceedings, and every member shall disclose any circumstance bearing on independence before taking up the application.

23. Information barrier

(1) The adjudicating authority shall be informed only of the pendency and of the disposal, withdrawal or lapse of an application, and of nothing further.

(2) No document, statement, admission or communication made in or for the purposes of an application that does not result in a settlement order shall be placed before, or be admissible before, the adjudicating authority, and no adverse inference shall be drawn from the making, withdrawal, lapse or failure of an application.

CHAPTER VI

PAYMENT, ORDERS AND REVIEW

24. Payment

(1) The settlement amount shall be paid in freely convertible foreign currency into the designated account determined in the consent terms within thirty days of the expiry of the cooling-off period.

(2) For any computation or conversion required for the purposes of these regulations, the rate of exchange shall be the reference rate notified by the Reserve Bank of India on the date of the settlement order.

25. Settlement order

(1) On receipt of the settlement amount and on compliance with the terms required to be performed before the order, the Panel shall, within fifteen days, pass the settlement order.

(2) Every settlement order shall recite:

- (a) the alleged default and the provisions engaged;
- (b) the conduct class and the admission made, and its extent;
- (c) the counterfactual amount computed under Schedule I, the discount applied and the stage at which the application was filed;

- (d) the non-monetary terms, if any;
- (e) that the order resolves only proceedings under the Act and the enactments specified in the First Schedule to the Act, in respect of the defaults specified, and has no effect upon any investigation or prosecution by any other agency;
- (f) the exchange rate date under regulation 24(2); and
- (g) that the order is passed with the consent of the applicant and the consequence thereof for appeal.

26. Effect of settlement order

- (1) On the passing of the settlement order, the specified proceedings shall stand disposed of as against the applicant.
- (2) The settlement order is an order made with the consent of the parties, and the applicant is apprised that no appeal lies against such an order.
- (3) An admission recorded under conduct class B or C shall bind the applicant and may be relied upon in proceedings under the redress framework of the Authority; save as aforesaid, a settlement order on a neither admitting nor denying basis shall not be construed as a finding of contravention.

27. Publication

Every settlement order shall be published on the website of the Authority within seven days, and the Authority shall maintain a public register of settlement orders and enforceable undertakings.

28. Application of amounts realised

- (1) Disgorged amounts attributable to identified persons shall be distributed to such persons through the redress machinery of the Authority within twelve months of the settlement order, and amounts remaining undistributed shall be dealt with as the Authority may direct.
- (2) The settlement amount other than disgorgement shall be dealt with in accordance with the Act and the directions of the Central Government.

29. Internal review

- (1) Within ninety days of the settlement order, the applicant or the Settlement Division may apply for review on the sole ground that the order was procured by, or proceeds upon, a material mistake or a material misrepresentation or suppression.

(2) The review shall be heard by a Panel differently constituted, which may affirm, modify or recall the order, and on recall the specified proceedings shall stand restored and amounts paid shall be refunded or adjusted as the Panel directs.

CHAPTER VII

REVOCATION

30. Revocation of settlement order

(1) The Panel may, after notice to the applicant and a hearing, revoke a settlement order where the applicant has breached its terms, or where the order was obtained by material misrepresentation or suppression.

(2) No revocation shall be ordered after thirty-six months from the date of the settlement order:

Provided that where the ground is fraud, the period shall run from the date of its discovery, but no revocation shall in any case be ordered after sixty months from the date of the order.

31. Consequences of revocation

On revocation, the specified proceedings shall stand restored to the stage at which they were suspended; amounts paid, other than disgorged sums already distributed under regulation 28(1), shall be adjusted against any liability finally determined; the breach or misrepresentation shall be an aggravating factor in the restored proceedings; and the applicant shall be ineligible to apply under these regulations for thirty-six months.

CHAPTER VIII

CONFIDENTIALITY

32. Without prejudice character

All communications, documents and statements made in or for the purposes of an application are made without prejudice, shall not amount to a waiver of any privilege, and shall not be admissible in the specified proceedings, in restored proceedings, or in any proceedings before the Securities Appellate Tribunal or a civil court, save with the written consent of the applicant.

33. Limits of confidentiality

Nothing in these regulations bars the disclosure of any material as required by or under any law for the time being in force, or in answer to a lawful requisition

or summons of an investigating agency, and regulation 32 shall not be construed as conferring any protection against such requisition or summons.

CHAPTER IX

FOCUSED RESOLUTION AGREEMENT

34. Focused resolution agreement

(1) An applicant may, in Form D of Schedule IV, admit the facts and the contravention alleged and consent that the adjudicating authority determine only the quantum of the penalty.

(2) On approval of the agreement by the Panel, the adjudicating authority shall determine the quantum after hearing the applicant, and the discount applicable to the stage at which the agreement was filed shall be applied to the quantum so determined.

35. Effect of focused resolution agreement

An order passed upon a focused resolution agreement shall be final as to the facts and the contravention, which stand admitted by consent, and an appeal shall lie against such order on the question of quantum alone, which the order shall recite.

CHAPTER X

ENFORCEABLE UNDERTAKINGS

36. Enforceable undertaking

(1) A person may, at any stage, including before the issuance of a show cause notice, offer to the Authority a written undertaking in Form C of Schedule IV to take, or to refrain from, specified action within specified time, and the Panel may accept the undertaking in lieu of, or in addition to, other action.

(2) Where the person offering the undertaking is a branch or subsidiary, the Panel may require that the undertaking be countersigned by, or supported by a board resolution or guarantee of, the parent, and may require a security deposit in the Centre where performance is capital-dependent.

(3) Every accepted undertaking shall be published.

37. Verification

Where the Panel so directs, performance of the undertaking shall be verified by an independent verifier appointed jointly by the Authority and the person,

at the cost of the person, and the verifier shall report to the Authority, whose acceptance of the completion report shall be published.

38. Breach of undertaking

Breach of an accepted undertaking shall constitute an independent default, shall be an aggravating factor in any proceedings, and the Authority may enforce the undertaking, appropriate any security deposit towards performance, and treat performance as a condition of continued registration.

CHAPTER XI

MISCELLANEOUS

39. Coordination in conduct class D matters

(1) Where the alleged default discloses a cognisable offence, or the matter has been referred to or is under investigation by any other agency, the Settlement Division shall, before draft consent terms are placed before the Panel, seek the comments of that agency in writing.

(2) Where the agency objects within forty-five days, the Panel shall defer consideration of monetary settlement; where no response is received within that period, the Panel may proceed, recording that fact in the order.

40. Annual report

The Authority shall publish annually the number of applications received, rejected, settled, withdrawn and lapsed; the average time to disposal against the limits in Chapter III; the aggregate of settlement amounts realised and of disgorged amounts distributed; and the undertakings accepted, verified and enforced.

41. Forms, fees and clarifications

The Authority may, by circular, prescribe or modify the forms and procedural directions under these regulations and issue clarifications; the monetary figures in the Schedules shall be revisable only by amendment notified under the Act.

42. Removal of difficulties

If any difficulty arises in giving effect to these regulations, the Authority may, within two years of commencement and by order published on its website, make such provision, not inconsistent with the Act or these regulations, as appears necessary for removing the difficulty.

SCHEDULE I

COMPUTATION OF THE SETTLEMENT AMOUNT

[See regulations 16 and 17]

1. Step one: Disgorgement. Compute the benefit made or loss avoided by reason of the default, together with simple interest thereon from the date of the default to the date of the application at the rate of [SOFR plus 200 basis points], and designate the aggregate as D. D is not subject to any discount.

2. Step two: Base amount. Assign the default a seriousness level from 1 to 5 and read the base amount B from the following table, selecting within the band by reference to duration, recurrence and the position of the person in the entity:

Level	Description	Category A entities (market infrastructure institutions and banking units), USD	Category B entities (intermediaries, fund managers, other registrants), USD	Individuals, USD
1	Isolated procedural or reporting default without client impact	[10,000 to 50,000]	[5,000 to 25,000]	[1,000 to 5,000]
2	Repeated procedural default, or isolated default with limited client impact	[50,000 to 150,000]	[25,000 to 75,000]	[5,000 to 15,000]
3	Systems and controls failure, substance-of-presence failure, or client-facing conduct default	[150,000 to 500,000]	[75,000 to 250,000]	[15,000 to 50,000]

Level	Description	Category A entities (market infrastructure institutions and banking units), USD	Category B entities (intermediaries, fund managers, other registrants), USD	Individuals, USD
4	Serious conduct default affecting clients or counterparties, or anti-money-laundering control failure	[500,000 to 1,500,000]	[250,000 to 750,000]	[50,000 to 150,000]
5	Market abuse, fraud, or default threatening market or settlement integrity	[1,500,000 to 5,000,000]	[750,000 to 2,500,000]	[150,000 to 500,000]

3. Step three: Adjustment. Increase or decrease B by up to 50 per cent for:

- aggravating factors, including concealment, obstruction and harm to retail participants, and
- mitigating factors, including voluntary reporting, cooperation and completed remediation.

4. Step four: Deterrence: Where the figure resulting from step three is insufficient to deter, having regard to the size and resources of the person or a pattern of default, apply an uplift not exceeding a multiple of two.

5. Step five: Discount. Apply the discount under regulation 17 to the figure resulting from step four. The settlement amount is D plus the discounted figure.

Illustration: A Category B fund manager commits a level 3 default, having made a benefit of USD 40,000; interest is USD 4,000; the base amount is taken at USD 150,000; cooperation reduces it by twenty per cent to USD 120,000; no deterrence uplift applies; the application is filed at stage one, attracting a thirty per cent discount, giving USD 84,000. The settlement amount is USD 44,000 plus USD 84,000, that is USD 128,000, and the order recites a counterfactual of USD 164,000.

SCHEDULE II

CONDUCT CLASSES AND ADMISSION STANDARDS

[See regulation 18]

Class	Conduct	Admission standard	Notes
A	Procedural, reporting and administrative defaults: delayed filings, net worth shortfalls, absent key managerial personnel, unmanned premises	No admission required; settlement available on a “no admission or denial” basis.	Enforceable undertakings will ordinarily accompany substance-of-presence defaults
B	Client-facing conduct: suitability, mis-selling, best execution, disclosure to clients	Admission of the primary facts; no admission of legal contravention required	Admitted facts may be relied upon under the redress framework, per regulation 26(3)
C	Market abuse, fraud on the market, anti-money-laundering failures, fiduciary breach	Admission of the facts and of the contravention	The discount is unaffected by the admission requirement
D	Conduct disclosing a cognisable offence, or referred to or under investigation by another agency	As for the underlying class, and subject to the coordination procedure	See regulation 39

SCHEDULE III

EXCLUDED CATEGORIES AND FACTORS

[See regulation 6]

Part A: Categories of alleged default that shall not ordinarily be settled:

1. Fraud upon retail participants causing widespread loss.

Illustration: A fund manager diverts scheme assets of a retail scheme; the loss falls upon more than fifty retail investors. The default shall not ordinarily be settled. A delayed disclosure by the same manager, promptly corrected and causing no loss, is not within this category.

2. Insider trading or front running by a key managerial person for personal benefit.

Illustration: A principal officer trades ahead of a client order for personal account gain. The default shall not ordinarily be settled. An inadvertent breach of a trading window by an employee, self-reported, is not within this category.

3. Anti-money-laundering failures involving actual movement of proceeds of crime or any nexus with the financing of terrorism.

Illustration: Transactions are established to have laundered identified proceeds through the entity. The default shall not ordinarily be settled. A deficiency in transaction-monitoring thresholds, without established laundering, is not within this category.

4. A repeat default in conduct class C within thirty-six months of a settlement order or adjudication order for a class C default.

5. Fabrication of records, or obstruction of an investigation or inspection of the Authority.

6. A default causing disruption to the settlement systems of the Centre.

Illustration: A default by a clearing member triggers recourse to the settlement guarantee fund, or a default causes a trading or settlement halt. The default shall not ordinarily be settled. An isolated settlement fail, reported and cured under the applicable bye-laws, is not within this category.

Part B: Factors to which the Panel shall have regard in deciding whether nevertheless to entertain an application: the completeness of restitution offered to affected persons; voluntary reporting before detection; the

SCHEDULES

conduct of the applicant during the investigation; the lapse of time and the availability of evidence; the position and culpability of the individuals involved; and the interest of financial consumers in an early, certain and compensated outcome.

SCHEDULE IV

FORMS

[See regulations 7, 11, 34 and 36]

Form A: Application for settlement. Particulars of the applicant and registration; the show cause notice or, for an application under regulation 4(2), the default disclosed; the specified proceedings and all related proceedings in India or elsewhere; the conduct class asserted; a full and true statement of facts; disclosure of prior settlement orders and undertakings; the declaration that the applicant understands that a settlement order is passed with consent and that no appeal lies against it; verification and signature.

Form B: Consent terms. The alleged default and provisions engaged; the conduct class and the admission; the Schedule I computation with the counterfactual; the non-monetary terms; the timelines for payment and performance; the declaration of the cooling-off right under regulation 14(2); signatures of the applicant and the Settlement Division.

Form C: Enforceable undertaking. The person and, where applicable, the parent; the conduct or omission addressed; the actions undertaken and the time for each; the verifier provision; the security deposit, if any; the acknowledgement that breach is an independent default under regulation 38; publication consent; signatures.

Form D: Focused resolution agreement. The facts and the contravention admitted; the consent that the adjudicating authority determine quantum alone; the stage and applicable discount; the acknowledgement that appeal lies on quantum alone; verification and signature.

[NAME]

Chairperson

International Financial Services Centres Authority