

● Disciplinary Law

Why disciplinary law for bank employees?

Dutch banks think it is important that all bank employees act with integrity and give clients' interests the highest importance. For this reason, everyone who works at a bank is required to take an oath. Just like doctors, lawyers and civil servants. By taking the oath, you declare that you will follow the code of conduct jointly drafted by the banks. The code prescribes that you work with integrity and care, prioritise the interests of the client above others and do not misuse your knowledge. The oath is not without obligations. If you do not abide by the code, you can be penalised. That is why the disciplinary law was created.

When/Regarding what can someone submit a report against you?

Someone can submit a report if he/she thinks that you have violated the code of conduct and if his/her interests have been harmed as a result. In theory, this can be done up to five years after the violation, even if you no longer work for the bank. The report must concern conduct that occurred after you took the oath and signed the disciplinary law statement. You can also submit a report yourself if you think that a colleague has not followed the code.

What happens with the report?

An independent agency enacting the disciplinary law, Banks Disciplinary Law Foundation (Stichting Tucht recht Banken), first evaluates whether the report is admissible. The report must have clear supporting arguments and must contain the name of the bank employee against whom the complaint is being filed. So not a bank or a department. When it has received an admissible report, the Banks Disciplinary Law Foundation institutes an investigation. You and the relevant bank will be notified of this. Within one month, you will be notified of whether the complaint is to be brought before a Disciplinary Board. Whether other proceedings against you are underway is factored into this decision.

The Disciplinary Board then investigates the complaint further. The relevant bank is required to cooperate with the investigation, you yourself are not. In these proceedings, Foundation for Banking Ethics Enforcement acts as the prosecutor. After the investigation, the Disciplinary Board decides within two months at the latest. If the complaint is founded, a penalty may be imposed. It is also possible that the Foundation for Banking Ethics Enforcement proposes a settlement.

If this settlement is accepted, the case is not presented to the Disciplinary Board and an appeal is no longer possible.

What penalties are possible?

The Disciplinary Board can take the following measures if a complaint is founded:

- a mandatory training;
- b a reprimand;
- c a personal fine at a maximum of 25,000 euros;
- d a temporary occupational suspension in the banking industry;
- e a partially anonymous publication of the decision (depending on the review by the Personal Data Protection Board).

How can you defend yourself against a complaint?

You will receive a copy of the complaint from the Disciplinary Board and possibly a further explanation from the Foundation for Banking Ethics Enforcement. You can respond in writing to this within one month or you can request an extension (of a maximum of 1 month) of this period. The chairman of the Disciplinary Board decides on this. The Foundation for Banking Ethics Enforcement may respond to your defence (statement of reply) and you can respond to this in turn (rejoinder). After that, the complaint is handled in a hearing, where you can defend yourself against the complaint. You can have yourself represented at this hearing by an authorised agent and/or have the assistance of counsel.

How am I notified of the decision?

You will receive a notification from the secretary of the Bank Disciplinary Law Foundation.

What if I disagree with the decision?

You can appeal a decision of the Disciplinary Board within one month of the postmark date of the decision to the Appeals Commission. By filing a notice of appeal, you submit your objections to the decision. The chairman of the Appeals Commission may ask you for further elucidation. The procedure is then largely the same as with the Disciplinary Board. The Foundation for Banking Ethics Enforcement can also file an appeal.

Bank Disciplinary Law Foundation

The Foundation for Banking Ethics Enforcement is responsible for the enactment of disciplinary law in the banking industry. This independent foundation was instituted by the Dutch Banking Association (Nederlandse Vereniging van Banken). Complaints are handled by an independent disciplinary board of experts and jurists. If an appeal is filed, this is handled by a different committee. This foundation assists in disciplinary procedures and also acts as prosecutor.

What if I doubt the objectivity of the members of the committee or board?

The secretary of the Disciplinary Board or Appeals Commission will notify you of the composition of the board or commission. You can submit a written request within ten days to challenge one or more members. You must indicate why you doubt the objectivity of the members of the board or commission. The relevant board or commission decides itself on the challenge, with the exception of the members against whom the challenge is aimed.

More information?

You can find the code of conduct at www.toekomstgerichtbankieren.nl. More information on disciplinary law, the Foundation for Banking Ethics Enforcement and the procedures can be found at www.tuchtrechtbanken.nl.