

Arbitration

Frequently asked questions

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1. What is “Arbitration”?

Ans. Arbitration is a quasi judicial process of settlement of disputes between trading member, investor, clearing member, sub-brokers, authorized person etc. Arbitration aims at quicker resolution of the disputes. When either of the parties is not satisfied with the complaint resolution process or the complaint is not resolved amicably between parties, the parties may choose the route of arbitration.

2. What kind of disputes are covered by Exchange Arbitration Mechanism?

Ans. All disputes arising out of transactions done on the Exchange by the parties are eligible for arbitration mechanism provided by the Exchange.

3. What is the legal framework for Arbitration mechanism provided by Exchange?

Ans. Arbitration framework at Exchange is governed by Rules, Byelaws, Regulations & Circulars issued by the Exchange and SEBI, from time to time.

4. Who can apply for arbitration?

Ans.

1. Investors who have disputes with the Trading Members / Sub-brokers with regards to transactions done on the Exchange and who possess the valid contract notes issued by the Trading Member of the Exchange.
2. Trading Members who have claim, dispute or difference with investor.

5. Within what time is the investor required to approach the Exchange for filing Arbitration?

Ans. As per stipulations of SEBI, the limitation period for filing an Arbitration application is governed by law of Limitation. As of date, as per Limitation Act, 3 years is the time period within which investor is required to approach Exchange for filing Arbitration.

6. Can investor concurrently pursue complaint resolution with ISC as well as Arbitration?

Ans. Complaint resolution through ISC is administrative in nature whereas Arbitration is a quasi judicial process. Hence, once arbitration proceedings are initiated against the trading member, the complaint filed with the Investor Services Cell (ISC) is treated as closed.

7. Can an investor file arbitration against expelled / defaulter member of Exchange?

Ans. Once a Member is expelled /declared defaulter he ceases to be a Member of the Exchange. However, Exchange issues public advertisement inviting public claims. Hence, no Arbitration would be admitted from investors. Investor may prefer his claim within a stipulated time.

8. What are the different forms / documents used for filing an Arbitration application?

Ans. Forms and lists of documents required to be submitted when arbitration is made against trading member are provided below.

Forms / Documents	Purpose
Mandatory	
1. Form no. I	Application for arbitration

2. Statement of Case	Brief description of the case, date wise summary of events leading to the dispute, basis of arriving at the claim amount and relief sought through arbitration.
3. Cheque /Pay Order/Demand Draft in favour of NSEIL	Towards cost of arbitration.
4. Statement of Accounts / DP statements	Incase of dispute for funds / securities
5. Copies of the relevant Contract Notes & Bills, PAN card copy	As referred in the statement of case to substantiate the claim.

9. *How do I obtain arbitration application forms, if I wish to apply for Arbitration?*

Ans. Arbitration application forms are available on Exchange website at http://www.nseindia.com/content/assist/asst_arb_forms.zip and applicant may download the same and use the form for making application. Alternatively, investors may request for forms by sending an email to ignse@nse.co.in along with the complete postal address, so that the forms can be mailed to them.

10. *What is a statement of case?*

Ans. A statement of case is a brief history of the dispute from the beginning to the end. Entire date wise sequence of events which took place between the investor and the trading member need to be described. Statement of case is the first source of information which the Arbitrator panel refers to understand the case and hence it is very significant.

11. *Where can investor file arbitration against the trading member?*

Ans. The Exchange has established four Regional Arbitration Centres (RAC) namely Mumbai, Delhi, Chennai & Kolkata to accept arbitration applications. The application for arbitration has to be filed at the Regional Arbitration Centre (RAC) nearest to the place where constituent ordinarily resides.

12. *Does Exchange have panel of Arbitrators? How many Arbitrators would look into the case?*

Ans. Exchange on a continuous basis maintains Arbitration Panel at each of its Arbitration Centre. Arbitrators are appointed to the panel based on the criteria like qualification, age, experience etc. If the claim value is more than 25 lakhs panel of three Arbitrators would be constituted and if claim value is less than 25 lakhs panel would consist of a Sole Arbitrator. The Arbitrator panel of the Exchange consists of eminent persons from the fields of judiciary, banking and financial services.

13. *How is the Arbitration Panel appointed for a case?*

Ans. The Arbitrator panel of the Exchange consists of eminent persons from the fields of judiciary, banking and financial services. The investor at the time of making Arbitration application has to give preference of Arbitrators. Based on the investor's preference panel is constituted. Similarly when Trading Member files for arbitration, the investor at the time of giving his response has to give his preference of Arbitrators. In case the investor does not provide his choice of Arbitrator panel then the trading member's preference is considered for the purpose of appointment of the Arbitrator panel. In case both the parties fail to make a choice of Arbitrator panel then the Exchange will appoint the Arbitrator panel as per the Bye-laws and Regulations framed by the Exchange.

14. *At the time of making Arbitration application, is the investor required to deposit any money with the Exchange?*

Ans. The deposit to be made by the investor at the time of making Arbitration Application is as under:

- a) If the dispute involves a claim amount less than or equal to Rs 10 lakhs and the investor has filed the arbitration application within six months from date of dispute, then the Exchange will bear the cost of arbitration on behalf of the investor.
- b) If the arbitration application is made beyond six months from date of dispute then the investor has to deposit 3.9% of claim amount subject to minimum of Rs 30,000/- towards cost of arbitration.

15. *How is the time limit of six months, stated above, computed?*

Ans. For the purpose of computing the six month period following would be considered:

- (a) six month period shall be computed from the end of the quarter during which the disputed transactions were executed.
- (b) time taken by trading member to resolve the dispute of the investor or one month from date of receipt of dispute by the member, whichever is earlier, is exempt while calculating the six month period.
- (c) time taken by the Investor Service Cell of Exchange to resolve the dispute will be exempted while calculating the six month period.

16. *What are the deposits payable by investor, at the time of filing an Arbitration Application?*

Ans. The deposit payable by investor is provided in following table:

Claim Value (Rs)	Claim is filed < 6 months	Claim is filed > 6 months
> 10,00,000 - ≤ 25,00,000	Rs. 13,000 plus 0.3% amount above Rs 10 lakh	Rs. 39,000 plus 0.9% amount above Rs. 10 lakh
> 25,00,000	Rs. 17,500 plus 0.2 % amount above Rs. 25 lakh subject to maximum of Rs. 30,000	Rs. 52,500 plus 0.6 % amount above Rs 25 lakh subject to maximum of Rs. 90,000

17. *What does an investor have to do if trading member files arbitration application against him?*

Ans. The investor has to reply in Form II provided to him by the Exchange. The Form II comprises of investors choice of arbitrators and statement of defense to the claim along with the required deposit amount.

18. *What is a counter claim?*

Ans. A counter claim is an amount claimed by a respondent in an arbitration matter. The counter claim is arrived at by the respondent on basis of amount or shares/ monies dues to him from the applicant.

19. *How does the Arbitrator panel deal with the Arbitration Case?*

Ans. The Arbitrator panel fixes a date on which the investor and trading member have to appear before the Arbitrator panel to present their case, this process is also called the hearing day. In case the claim amount is less than Rs. 25,000 the Arbitrator panel may not a hold hearing and pass the award based

on the documents submitted by both the parties. If the claim amount is more than Rs. 25,000 Arbitrator panel holds hearing/s.

20. *What happens if the investor is unable to attend the arbitration hearings?*

Ans. Investor may attend the arbitration proceedings and defend the matter on his own or appoint authorized representative to defend the matter by executing power of attorney. Investor is given an opportunity to submit all documents on the basis of which the Arbitrator panel can proceed in the arbitration matter.

21. *What is the remedy available to an investor, if the hearing date decided by the Arbitrator panel is not suitable to him?*

Ans. If hearing date fixed by Arbitrator panel is not suitable to either parties then they can apply for postponement of hearing. The parties should make an application in writing to the Exchange giving reasons for seeking postponement well in advance, so as to enable the Exchange to forward such request to the Arbitrator panel. The Arbitrator panel on their discretion may grant the adjournment subject to such conditions as may deemed fit in the matter.

22. *What are the timelines for completion of arbitration proceedings?*

Ans. The Arbitrator panel is required to complete arbitration proceedings within four months from the date of appointment and pass the award. However, the period can be extended by two more months by the Relevant Authority based on the request of the Arbitrator panel.

23. *What is an "Award"?*

Ans. Award is a judgment passed by the Arbitrator panel which gives direction to either of the parties or both of them as regards to the dispute, with a direction to either of the disputing parties as regards to their claims raised in the Arbitration Matter.

24. *Can the Award be given on agreed terms?*

Ans. If after the appointment of an Arbitrator panel, the parties settle the dispute amicably, then the Arbitrator panel will record the settlement of the dispute in the form of an arbitration award on agreed terms. However the agreed terms have to be in respect of transactions on the Exchange and all documents in support of this need to be furnished by the parties.

25. *Who will bear the costs of Arbitration?*

Ans. Party against whom the arbitral award has been passed will bear the costs of Arbitration. The stock exchange gives a full refund of deposit to the party in whose favour the award has been passed.

26. *If after filing arbitration the investor and trading member settle the dispute mutually, then who will bear the cost of arbitration?*

Ans. The cost of arbitration will be borne by the applicant in the said arbitration case.

27. *What if either of the parties is aggrieved with the Award passed by the Arbitrator panel?*

Ans. If either of the parties is aggrieved by the Award, the aggrieved party may approach the Exchange with an application in the prescribed format for appeal along with applicable deposit against the award within a period of 30 days from the date of receipt of the Arbitral Award.

28. What happens if arbitral award is in favour of investor?

Ans. When the arbitral award given by the Arbitrator panel is in favour of the investor then the Exchange will set aside the award amount from the deposits of the trading member and the same is kept in a separate escrow account with the Exchange. If the trading member fails to prefer an appeal against the award within the specified time, then the award amount is released to the investor.

29. What are the different forms / documents used for filing an appeal application?

Ans. Forms and lists of documents required to be submitted while filing an appeal application with the Exchange are as follows:

Forms / Documents	Purpose
Mandatory	
1. Form no. III	Application for appeal
2. Statement of appeal	Brief description of the grounds which are to be placed in the appeal and relief sought through the appeal process.
3. Cheque /Pay Order/Demand Draft for Rs.30,000 /- in favour of NSEIL (exclusive of stamp duty charges etc).	Towards cost of appeal.

30. What does an investor have to do if trading member files appeal application against arbitral award?

Ans. The investor has to reply in Form IV provided to him by the Exchange. The Form IV comprises of investors choice of arbitrators and statement of defense to the appeal.

31. How is Appellate Arbitrator panel formed?

Ans. The Appellate Arbitrator panel comprises of three Arbitrators who are different from the ones who passed the original arbitral award appealed against.

32. Can an investor choose Arbitrator panel for appellate arbitration?

Ans. The investor at the time of preferring an appeal, may give his preferences for Panel Members and based on his preferences may choose the appellate Arbitrator panel. In case the investor does not provide his choice of appellate Arbitrator panel then the trading member's preference is considered in appointing the appellate Arbitrator panel. In case both parties do not give their preferences, Exchange would constitute the Panel.

33. How does the Appellate Arbitrator panel proceed in the matter?

Ans. The Appellate Arbitrator panel hears both the parties and will pass an appellate arbitral award. The appellate arbitral award may set aside decision taken in the original arbitral award or uphold the same.

34. What happens if the appellate arbitral award is in favour of the investor?

Ans. When the appellate arbitral award is passed in favour of investor,

- trading member may settle the award and confirm the same to the Exchange.
- trading member can further file petition in High Court under section 34 of the Arbitration and Conciliation Act 1996. In case Court rejects / dismisses the application or does not grant stay within three months from date of filing petition, then the award amount will be released to the investor.

35. *In which Court is the petition under section 34 of the Arbitration and Conciliation Act 1996 filed?*

Ans. The petition under section 34 of the Arbitration and Conciliation Act 1996, shall be filed in the competent Court nearest to regional arbitration centre situated near to the place of constituent.

36. *Are there any separate costs for appellate mechanism? If so, who bears the costs?*

Ans. There is a fixed cost of Rs.30,000/- (exclusive of stamp duty charges etc.) which shall be borne by the Appellant.
