

## Arbitration – Frequently Asked Questions

**1. What is “Arbitration”?**

Ans. Arbitration is a quasi-judicial process of settlement of disputes between trading members, investors, clearing members, sub-brokers, authorized persons 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 is covered by Exchange Arbitration Mechanism?**

Ans. All disputes arising out of transactions done on the Exchange by the parties or anything incidental thereto 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 the 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. (a) Investors who have disputes against the Trading Members/Sub-brokers/Authorised Persons with regard to trades and transactions done on the Exchange or anything incidental thereto;

(b) Trading Members who have claim, dispute or difference against investors/Sub-brokers/Authorised Persons/Clearing Members and vice versa, with regard to the trades and transactions done on the Exchange or anything incidental thereto.

**5. Within what time are the parties 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, 1963, 3 years from date of dispute is the time period within which parties are required to approach the Exchange for filing arbitration.

**6. Can an investor concurrently pursue complaint resolution with Investor Service Cell (ISC) as well as Arbitration?**

Ans. Complaint resolution through Investor Service Cell (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 ISC is treated as closed.

**7. Can an investor file arbitration against a trading member who is expelled or declared defaulter by the Exchange?**

Ans. Once a trading member is expelled/declared defaulter he ceases to be a member of the Exchange. However, Exchange issues a public advertisement inviting claims against such trading members. Investors may prefer their claim to the Defaulters Committee Section within the 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 filed against trading member are provided below.

	Forms/ Documents	Purpose
1.	Form no. 1	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	In case 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 does an investor obtain arbitration application forms, if he/she wishes to apply for Arbitration?**

Ans. Arbitration application forms are available on Exchange website at [http://www.nseindia.com/content/assist/arbitration/asst\\_arb\\_forms.zip](http://www.nseindia.com/content/assist/arbitration/asst_arb_forms.zip). An applicant may download the same and use the form for filing application. Alternatively, a request for forms can be made to the Exchange by sending an email to [ignse@nse.co.in](mailto:ignse@nse.co.in) along

with the complete postal address, so that the forms can be mailed to them. The forms can also be obtained from any of the Regional Arbitration Centres.

**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 needs to be described. Statement of case is the first source of information which the sole arbitrator/ arbitrator panel refers to in advance to understand the case and hence it is very significant.

**11. Where is the arbitration application filed?**

Ans. The arbitration application has to be filed at the Regional Arbitration Centre (RAC) nearest to the address mentioned in KYC of the investor. Exchange has established RACs at Mumbai, Ahmedabad, Bangalore, Chennai, Delhi, Hyderabad, Indore, Jaipur, Kanpur, Kolkata and Pune to accept arbitration applications.

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

Ans. Exchange on a continuous basis maintains panel of arbitrators at each of its Regional Arbitration Centre. The arbitrator panel of the Exchange consists of eminent persons from the fields of judiciary, banking and financial services and the appointment is based on the criteria like qualification, age, experience etc. If the claim value is more than Rs. 25 Lakhs, a panel of three arbitrators is constituted and if the claim value is less than Rs. 25 Lakhs, a sole arbitrator is appointed. The region wise list of arbitrators is available on the Exchange website at

[http://www.nseindia.com/content/assist/arbitration/asst\\_arb\\_panel.pdf](http://www.nseindia.com/content/assist/arbitration/asst_arb_panel.pdf).

**13. How is the arbitration panel appointed for a case?**

Ans. The applicant at the time of making arbitration application has to give preference of arbitrators in Form I. Likewise, on admission of the matter, preferences of arbitrators are called from the respondent and arbitrators are appointed through a computerized automated process as per SEBI Circular dated March 18, 2013, in which neither the Exchange officials nor the parties to arbitration are directly involved.

**14. At the time of making arbitration application, is the applicant required to deposit any money/fees 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, then the investor, either applicant or respondent, is exempted from payment of fees towards cost of arbitration and the Exchange will bear the same on behalf of the investor.
- b) If the dispute involves a claim amount of more than Rs. 10 lakhs, the investor has to deposit fees as provided herein below:

Amount of Claim /Counter Claim, whichever is higher	If claim is filed within six months	If claim is filed after six months
> ₹.10,00,000 - ≤ Rs.25,00,000	₹. 13,000 plus 0.3% amount above ₹. 10 lakh	₹. 39,000 plus 0.9% amount above ₹. 10 lakh
> ₹. 25,00,000	₹. 17,500 plus 0.2 % amount above ₹. 25 lakh subject to maximum of ₹. 30,000	₹. 52,500 plus 0.6 % amount above ₹. 25 lakh subject to maximum of ₹. 90,000

**15. How the time limit of six months stated above is 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. Are there any other charges payable apart from the one mentioned above?**

Ans. Stamp duty is applicable on the awards passed by arbitrators. The amount of stamp duty payable is to be deposited along with the deposit mentioned in (14) above. Initially the stamp duty is to be deposited with the Exchange based on the claim amount of the matter filed and on passing of the award, the stamp duty is calculated on the final award amount passed in the matter. The amount of stamp duty payable on the award is

governed as per the stamp duty applicable to the particular state and may differ for every Regional Arbitration Center (RAC).

**17. What does the respondent do if arbitration application is filed against him?**

Ans. The respondent has to reply by way of Form II provided to him by the Exchange. The Form II comprises of respondent's 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 against the applicant in an arbitration matter. The counter claim is arrived at by the respondent on the 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 for hearing on which the investor and trading member have to appear before the arbitrator panel to present their case. In case the claim amount is less than Rs.25,000, the arbitrator may or may not hold hearings and pass the award based on the documents submitted by both the parties. If the claim amount is more than Rs.25,000, the arbitrator may hold hearing/s unless specifically denied by both the parties in writing.

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

Ans. If the hearing date fixed by the arbitrator panel is not suitable to either parties or the parties are unable to attend the same, then they can apply for adjournment/postponement of hearing. The parties should make an application in writing to the Exchange giving reasons for seeking adjournment/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 be deemed fit in the matter.

**21. Can the parties appoint representatives to attend hearing?**

Ans. Investors may attend the arbitration proceedings and defend the matter on their own or appoint authorized representative or a counsel/attorney/advocate to defend the matter

by executing a notarized/registered power of attorney. In case the investor decides to be represented through a counsel/attorney/advocate, only then the trading member will be provided with an equal opportunity to appoint a counsel/attorney/advocate.

**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 of arbitrator/s and pass the award. However, the period can be extended by two more months by the Relevant Authority based on the request of either of the parties to arbitration or the arbitrator panel.

**23. What is an Award?**

Ans. Award is judgment passed by the arbitration panel which gives a direction to either of the disputing parties as regard to their claim raised in the arbitration matter.

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

Ans. If after the appointment of the 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 Exchange gives a full refund of deposit to the party in whose favour the award has been passed.

**26. 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 before the appellate arbitrators, along with applicable deposit, within a period of 30 days from the date of receipt of the arbitral award or the aggrieved party can challenge the award u/s 34 of Arbitration and Conciliation Act, 1996 in the court nearest to the address provided by

constituent in the KYC form or as per the change in address communicated thereafter by the constituent to the trading member.

**27. Can any changes be made in the award after it is passed by arbitrator and delivered to the parties?**

Ans. The award once passed by the arbitrator is final and binding on the parties unless challenged before a higher forum. In case of certain corrections or interpretation required to be made in the award, any party to arbitration can file application with the Exchange u/s 33 of Arbitration and Conciliation Act, 1996 for correction or interpretation of award, within one month from the date of receipt of award. The Exchange will forward the application to the concerned arbitrator/s and in case the arbitrator/s feel/s the requirement of correction/interpretation in the award as requested, he can do so by passing a separate order.

**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 will be 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:

<b>Forms / Documents</b>	<b>Purpose</b>
<b>Mandatory</b>	
1. Form no. III	For filing appeal against the award passed
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 ₹. 30,000/- in favor of NSEIL (exclusive of stamp duty charges etc).	Towards cost of appeal.

**30. What fee is to be paid by an investor in case he wants to file appeal before appellate arbitrators of Exchange?**

Ans: There is a fixed cost of ₹.30,000/- along with stamp duty charges etc. as applicable, which shall be borne by the Appellant only. The fees are non-refundable. In case the claim/counterclaim of the investor is upto ₹. 10 lakh, then the investor shall pay a fee of ₹. 10,000/- .

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

Ans. The investor has to the 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.

**32. How many arbitrators are appointed for appellate arbitration?**

Ans. The appellate arbitrator panel comprises of three arbitrators who are different from the ones who passed the original arbitral award appealed against.

**33. How are arbitrators appointed for appellate arbitration matter?**

Ans. The appellant at the time of preferring an appeal submits his preferences of arbitrators in Form III and after admission of appeal, the respondent may submit his preference of arbitrators in Form IV. Based on the preferences received, the appellate arbitrator panel is appointed by a computerized automated process as per SEBI Circular dated March 18, 2013, in which neither the Exchange officials nor the parties to arbitration are directly involved.

**34. How does the appellate arbitrator panel proceed in the matter?**

Ans. The appellate arbitrator panel hears both the parties and passes an appellate arbitral award. The appellate arbitral award may set aside decision of the original arbitral award or uphold the same.

**35. 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:

- (a) Trading member may settle the award and confirm the same to the Exchange;
- (b) Trading member may challenge the appellate arbitral award under section 34 of the Arbitration and Conciliation Act, 1996 before the court nearest to the address



provided by constituent in the KYC form or as per the change in address communicated thereafter by the constituent to the trading member.

**36. 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 court nearest to the address provided by constituent in the KYC form or as per the change in address communicated thereafter by the constituent to the trading member.

**Regional Arbitration Centres (RACs)**

<b>MUMBAI:</b>  Western Regional Office: National Stock Exchange of India Ltd., 6th floor, Kohinoor City, Tower – 1, Commercial – II, Kirod Road, Off. L. B. S. Marg, Kurla (W), Mumbai – 400 070  Tel. No: (022) 25045300 Fax No: (022) 25045299 E-mail : <a href="mailto:nseiscmum@nse.co.in">nseiscmum@nse.co.in</a>	<b>AHMEDABAD:</b>  National Stock Exchange of India Ltd Office No. 304/305 GCP Business Centre Opposite Memnagar Fire Station Navrangpura Ahmedabad - 380009  Tel No : (079) 49008609 Fax No : (079) 49008660 E-mail : <a href="mailto:arbitration_ahm@nse.co.in">arbitration_ahm@nse.co.in</a>
<b>BANGALORE:</b>  National Stock Exchange of India Ltd Office No: 101, DBS House 26, Cunningham Road, Bengaluru, Karnataka-560052  Tel No : (080) 40407188/ 40407101 Fax No : (080) 4040 7188 E-mail : <a href="mailto:nseiscbeng@nse.co.in">nseiscbeng@nse.co.in</a>	<b>CHENNAI:</b>  National Stock Exchange of India Ltd 8th Floor, Arihant Nitco Park, No 90, Dr Radhakrishnan Salai, Mylapore, Chennai 600 004.  Tel No : (044) 28479900/28479909 Fax No : (044) 28479926/27 E-mail : <a href="mailto:arb_cro@nse.co.in">arb_cro@nse.co.in</a>
<b>DELHI:</b>  National Stock Exchange of India Ltd. 4th Floor, Jeevan Vihar Building, Parliament Street, New Delhi-110 001  Tel No : (011) 23459133/ 49393033 Fax No : (011) 23459291 E-mail : <a href="mailto:nseiscdel@nse.co.in">nseiscdel@nse.co.in</a>	<b>HYDERABAD:</b>  National Stock Exchange of India Ltd. 8-2-594/A/1, Third Floor, Urmila Heights, Opp Rainbow Hospital, Road No 10, Banjara Hills, Hyderabad – 500034  Tel No : 040-23357082/ 7083 Fax No : 040-23357084 E-mail : <a href="mailto:nseischyd@nse.co.in">nseischyd@nse.co.in</a>
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<p><b>PUNE:</b></p> <p>M/s. Regus Business Centre (Pune) Pvt. Ltd. Regus, NSEIL's Office no. 233, Level - II, Connaught Place, Bund Garden, Pune – 411001</p> <p>Tel No : (020) 40147519 Fax No : (020) 40147576 E-mail : <a href="mailto:nseiscpu@nse.co.in">nseiscpu@nse.co.in</a></p>	<p><b>PATNA</b></p> <p>National Stock Exchange of India Ltd., Address: No. 305, 3rd Floor, Vasundhara Metro Mall, Boring Canal Road, Patna - 800 001</p> <p>Tel No: 09570660011 E-mail: <a href="mailto:nseiscpatna@nse.co.in">nseiscpatna@nse.co.in</a></p>
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