



भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

CIRCULAR

CIR/CDMRD/DEICE/CIR/P/2017/77

July 11, 2017

To,

The Managing Directors / Chief Executive Officers
All National Commodity Derivatives Exchanges

Sir/Madam,

Subject: Amendment to Investor Grievance Redressal System and Arbitration Mechanism

1. SEBI, vide its Circular No. CIR/CDMRD/DIECE/02/2015 dated November 16, 2015, mandated Investor Grievance Redressal System and Arbitration Mechanism to National Commodity Derivatives Exchanges (herein after referred to as Exchanges) and directed exchanges to comply with the provisions of circulars as issued by SEBI in this regard, with effect from April 01, 2016.
2. In order to further enhance the effectiveness of grievance redressal mechanism at Market Infrastructure Institutions (MIIs), based on the internal deliberations, discussions and feedback as received from MIIs, it has been decided to add/modify certain provisions in the aforesaid circular, which are as follows:

A. Investor Grievance Resolution Panel (IGRP)/ Arbitration Mechanism

i. Public dissemination of profiles of arbitrators

In order to enhance transparency and also to provide choice to parties, Exchanges shall disseminate information w.r.t. brief profile, qualification, areas of experience/ expertise, number of arbitration matters handled, pre-arbitration experience, etc. of the arbitrators on their website.

ii. Submission of documents in soft copies

In order to assist the arbitrators in pronouncing comprehensive and speedy awards, Exchanges shall make necessary arrangements in terms of hardware viz., computer, scanner, printer, etc. and required software's at exchange offices/ Investor Service Centers (ISCs) to facilitate the clients to type/ convert their documents into electronic format/ soft copy. Such electronic format/ soft copies shall be provided to the arbitrators along with original submissions in physical copies.



iii. Review and Training of arbitrators

Investor Service Committee of the Exchanges shall review the performance of the arbitrators annually and submit the review report to the Board of the Exchange. Training need of the arbitrators will be catered by National Institute of Securities Markets (NISM). Cost of training of arbitrators may be incurred from ISF of the exchange.

iv. Mechanism for implementation of award

Exchanges shall create a common database of defaulting clients accessible to members across the Exchanges.

For this purpose, a client may be identified as defaulter if the client does not pay the award amount to the member as directed in the IGRP/ arbitration/ appellate arbitration order and also does not appeal at the next level of redressal mechanism within the timelines prescribed by SEBI or file an application to court to set aside such order in accordance with Section 34 of the Arbitration and Conciliation Act, 1996 (in case of aggrieved by arbitration/ appellate award).

v. Empanelment of arbitrators and segregation of arbitration and appellate arbitration panel

There shall be separate panels for arbitration and appellate arbitration. Further, for appellate arbitration, at least one member of the panel shall be a Retired Judge. Exchanges shall obtain prior approval of SEBI before empanelment of arbitrators/ appellate arbitrators.

vi. Empanelment of IGRP members

Exchanges shall empanel IGRP members, however, no arbitrator/ appellate arbitrator shall be empaneled as IGRP member.

vii. Revision in professional fee of arbitrators

The arbitrator fee shall be upwardly revised to Rs.18,000/- (Rs. Eighteen thousand) per case. Consequent to this upward revision, the additional expenses attributable to a client over and above the fee structure as specified in point x, shall be borne by the client (wherever applicable) and Exchange equally. The total expense attributable to the member has to be borne by the concerned member.



viii. Place of Arbitration/ Appellate Arbitration

In case award amount is more than Rs. 50 lakh (Rs. Fifty lakh), the next level of proceedings (arbitration or appellate arbitration) may take place at the nearest metro city, if desired by any of the party involved. The additional cost for arbitration, if any, to be borne by the appealing party.

ix. Arbitration / Appellate Arbitration award

In order to safeguard the interest of the parties involved in arbitration and to ensure speedy implementation of the arbitration award, the rate of interest on the award passed by arbitrators shall be in compliance with Arbitration and Conciliation (Amendment) Act, 2015.

x. Speeding up grievance redressal mechanism

a. In order to have faster implementation of award and to discourage delayed filing of arbitrations by members, the fee structure (exclusive of statutory dues - stamp duty, service tax, etc.) for filing arbitration reference shall be as follows:-

b.

Amount of Claim / Counter Claim, whichever is higher (in Rs.)	If claim is filed within six months from the date of dispute	If claim is filed after six months from the date of dispute or after one month from the date of IGRP order, whichever is later	If the claim is filed beyond the timeline prescribed in column 3, (only for member)
≤ 10,00,000	1.3% subject to a minimum of Rs.10,000	3.9% subject to a minimum of Rs.30,000	Additional fee of Rs. 3,000/- per month over and above fee prescribed in column 3
> 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	Additional fee of Rs. 6,000/- per month over and above fee prescribed in column 3
> 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	Additional fee of Rs. 12,000/- per month over and above fee prescribed in column 3



भारतीय प्रतिभूति और विनियम बोर्ड Securities and Exchange Board of India

- c. The filing fee will be utilized to meet the fee payable to the arbitrators. Excess of filing fee over fee payable to the arbitrator, if any, to be deposited in the IPF of the respective exchange.
- d. A client, who has a claim / counter claim upto Rs. 10 lakh and files arbitration reference, will be exempted from filing the deposit.
- e. In all cases, on issue of the arbitral award the exchange shall refund the deposit to the party in whose favour the award has been passed.

xi. Threshold limit for interim relief paid out of IPF in Exchanges

SEBI vide its circular no CIR/CDMRD/DIECE dated November 16, 2015 has made applicable Circular No. CIR/MRD/ICC/30/2013 dated September 26, 2013 to Exchanges. In partial modification to Circular No. CIR/MRD/ICC/30/2013 dated September 26, 2013 on "Investor Grievance Redressal Mechanism" the following changes are prescribed:

- (i) Exchanges, in consultation with the IPF Trust and SEBI, shall review and progressively increase the amount of interim relief available against a single claim for an investor, at least every three years.
- (ii) The Exchanges shall disseminate the interim relief limit fixed by them and any change thereof, to the public through a Press Release and also through its website.
- (iii) In case, award is in favour of client and the member opts for arbitration wherein the claim value admissible to the client is not more than Rs. 20 lakhs (Rs. Twenty lakhs), the following steps shall be undertaken by the Exchange:
 - a) In case the IGRP award is in favour of the client then 50% of the admissible claim value or Rs. 2.00 lakhs (Rs. Two lakhs), whichever is less, shall be released to the client from IPF of the Exchange.
 - b) In case the arbitration award is in favour of the client and the member opts for appellate arbitration then 50% of the amount mentioned in the arbitration award or Rs. 3.00 lakhs (Rs. Three lakhs), whichever is less, shall be released to the client from IPF of the Exchanges. The amount released shall exclude the amount already released to the client at clause (a) above.
 - c) In case the appellate arbitration award is in favour of the client and the member opts for making an application under Section 34 of the Arbitration and Conciliation Act, 1996 to set aside the appellate arbitration award, then 75% of the amount determined in the appellate arbitration award or Rs. 5.00 lakhs (Rs. Five Lakhs), whichever is less, shall be released to the client from IPF of the Exchanges. The amount released shall exclude the amount already released to the client at clause (a) and (b) above.



भारतीय प्रतिभूति और विनियम बोर्ड Securities and Exchange Board of India

- d) Total amount released to the client through the facility of interim relief from IPF in terms of this Circular shall not exceed Rs. 10.00 lakhs (Ten lakhs) in a financial year.

B. Disciplinary Action Committee, Defaulters' Committee, Investors Service Committee, Arbitration Committee

SEBI vide its circular no CIR/CDMRD/DEA/03/2015 dated November 26, 2015 has made applicable circular No. CIR/MRD/DSA/33/2012 dated December 13,2012 to Exchanges. In partial modification to circular no. CIR/MRD/DSA/33/2012 dated December 13,2012, the composition and functions of the Disciplinary Action Committee, Defaulter's Committee and Investors Service Committee will be as follows:

Sr. No	Name of Committee	Functions handled	Composition
1	Disciplinary Action Committee	<p>i. The Committee shall formulate the policy for regulatory actions including warning, monetary fine, suspension, withdrawal of trading terminal, expulsion, to be taken for various violations by the members of the exchange.</p> <p>ii. Based on the laid down policy, the Committee shall consider the cases of violations observed during inspection, etc and impose appropriate regulatory action on the members of the exchange.</p> <p>iii. While imposing the regulatory measure, the Committee shall adopt a laid down process, based on the 'Principles of natural justice'.</p>	<p>(i) The Committee shall have a minimum of 3 members and a maximum of 5 members;</p> <p>(ii) The Public Interest Directors shall form a majority of the Committee;</p> <p>(iii) A maximum of two key management personnel of the exchange can be on the committee and one of which shall necessarily be the Managing Director of the exchange;</p> <p>(iv) The Committee may also include independent external persons such as retired judge, etc.</p> <p>(v) SEBI may nominate members in the Committee, if felt necessary in the interest of commodities market;</p>
2	Defaulters' Committee	<p>i. To realize all the assets / deposits of the defaulter/ expelled member and appropriate the same amongst various dues and claims against the defaulter/ expelled member in accordance with</p>	<p>i. The Committee shall have a minimum of 3 members and a maximum of 5 members;</p> <p>ii. The Public Interest Directors shall form a majority of the Committee.</p>



भारतीय प्रतिभूति और विनियम बोर्ड
Securities and Exchange Board of India

		<p>the Rules, Byelaws and Regulations of the exchange.</p> <p>ii. In the event both the clearing member and his constituent trading member are declared defaulter, then the Defaulter's Committee of the exchange and the Defaulter's Committee of the clearing corporation shall work together to realise the assets of both the clearing member and the trading member.</p> <p>iii. Admission or rejection of claims of client/ trading members/ clearing members over the assets of the defaulter/ expelled member.</p> <p>iv. Advise in respect of the claims to the Trustees of the IPF on whether the claim is to be paid out of IPF or otherwise.</p>	<p>iii. A maximum of two key management personnel of the exchange can be on the Committee.</p> <p>iv. The Committee may also include independent external persons such as retired judge, etc.</p> <p>v. SEBI may nominate members in the Committee, if felt necessary in the interest of commodities market;</p>
3	Investor Services Committee	<p>i. Supervising the functioning of Investors' Services Cell of the Exchange which includes review of complaint resolution process, review of complaints remaining unresolved over long period of time, estimate the adequacy of resources dedicated to investor services, etc.;</p> <p>(i) Supervision of utilization of ISF;</p> <p>(ii) To have annual review of the arbitrators and arbitration/ awards (both quantum and quality of the awards).</p>	<p>i. The Committee shall have a minimum of 3 members and a maximum of 5 members.</p> <p>ii. The Public Interest Directors shall form a majority of the Committee.</p> <p>iii. A maximum of two key management personnel of the exchange can be on the Committee.</p> <p>iv. The Committee may also include independent external persons.</p> <p>v. SEBI may nominate members in the Committee, if felt necessary in the interest of commodities market;</p>

3. The arbitration committee as mandated vide SEBI circular no. CIR/CDMRD/DEA/03/2015 dated November 26, 2015 read with CIR/MRD/DSA/33/2012 dated December 13, 2012 shall stand discontinued.



भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

4. The Commodity Derivatives Exchanges are advised to:-
 - make necessary amendments to relevant bye-laws, rules and regulations for the implementation of this circular.
 - bring the provisions of this circular to the notice of the members of the Commodity Derivatives Exchanges and also to disseminate the same through their website.
 - communicate SEBI, the status of implementation of the provisions of this circular.
5. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act 1992, read with Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market and shall come into effect immediately. All other provisions of the relevant circulars will continue to be in force .
6. The circular is available on SEBI website at www.sebi.gov.in.

Yours faithfully,

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