

SEBI: STRENGTHEN EFFECTIVENESS AND TRANSPARENCY OF ARBITRAL MECHANISM OF EXCHANGES

Recently, [the Indian Stock Market Regulator SEBI](#) has taken some strong measure to strengthen the Arbitration Mechanism available in Stock Exchanges for settlement of disputes vide its circular No. CIR/MRD/DSA/24/2010 of 11/08/2010 & CIR/MRD/DSA/29/2010 of 31/08/2010.

It has been decided that every stock exchange shall maintain its own panel of arbitrators as per number of disputes so as to enable the arbitrators to handle the arbitration references easily and to dispose off them within the prescribed time limit. The stock exchanges shall ensure that the arbitrators have adequate qualifications and are included in the panel in accordance with fair and transparent criteria & there has been a short code of conduct for the arbitrators. Specifically the arbitrators are to act in a fair, impartial and independent manner, and shall disclose circumstances where there is conflict of interest. [The stock exchange](#) shall provide at least seven days of continuing education to every arbitrator each year & an appraisal would be given to the arbitrators as per their performances.

The arbitrator should be appointed within 30 days after receiving the arbitration reference by the exchange. Arbitration claims can also be filed after six months under the new framework since the limitation period for arbitration has now been modified to three years as prescribed under the Limitation Act, 1963. An award should be passed within four months after appointment of the arbitrator. The time for issue of arbitral award may be extended for up to two months on a case to case basis after recording the reasons for the same. An appeal may be filed before the appellate panel of arbitrators of the stock exchange within one month from the date of receipt of arbitral award.

Uncertainty about arbitration fees has been removed by fixing the maximum limit. A client filing an arbitration reference for claim/counter claim up to Rs. 10 lakh within six months does not have to pay any fees. For such clients, the costs are to be borne by the stock exchange. Six months shall be computed from the end of the quarter during which the disputed transaction(s) were executed/ settled, whichever is relevant for the dispute, and after excluding the time taken by the Investors Grievances Redressal Committee of the Stock Exchange to resolve the dispute and the time taken by the member to attempt the resolution of the dispute.

As per the circulars, the arbitration and appellate arbitration shall be conducted at the regional centre (Delhi, Mumbai, Kolkata and Chennai) nearest to the client. The [application under Section 34 of the Arbitration and Conciliation Act, 1996](#), if any, against

the decision of the appellate panel shall be filed in the competent Court nearest to such regional centre. Other stock exchanges shall provide the arbitration facility, including appellate arbitration, at the place where it is located.

The arbitral award shall be disclosed by the stock exchange on its website in different formats. The stock exchange shall preserve the arbitral and appellate arbitral award with acknowledgements, confirming receipt of award by the disputing parties, permanently and other records pertaining to arbitration for five years from the date of arbitral award, appellate arbitral award or Order of the Court, as the case may be; and register of destruction of records relating to other records permanently.

The initiative taken by the SEBI will certainly increase the transparency into the arbitration mechanism of the exchanges and will improve the quality of arbitral awards apart from protecting the interest of small investors.

[Neeraj Aarora](#)
[Advocate](#)