
NATIONAL COMMODITY & DERIVATIVES EXCHANGE LIMITED

Circular to all market participants of the Exchange
Circular No.: NCDEX/INVESTOR SERVICES-004/2023
Date : June 28, 2023
Subject : Master Circular- ISC & Arbitration

Exchange has been issuing various circulars to its Members from time to time. In compliance with the SEBI Circular No. SEBI/HO/MRD/POD 3/CIR/P/2023/58 dated April 20, 2023 and in order to enable the users to have an access to all the applicable circulars in one place, the "Master Circular- ISC & Arbitration" is attached hereto as **Annexure A**.

This circular is a compilation of all the relevant circulars issued by the Exchange/SEBI which are operational as on March 31, 2023.

It is hereby clarified that in case of any inconsistency between the Master Circular and the original applicable circulars, the content of the relevant circular shall prevail.

Notwithstanding in any revision in the processes or formats, if any –

- a) anything done or any action taken or purported to have been done or taken under such revised/ rescinded process including but not limited to any regulatory inspection/ investigation or enquiry commenced or any disciplinary proceeding initiated or to be initiated under such rescinded/ revised process or rescission, shall be deemed to have been done or taken under the corresponding provisions of this Master Circular;
- b) the previous operation of the rescinded process or circular or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred thereunder, any penalty incurred in respect of any violation of such rescinded process or circulars, or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty as aforesaid, shall remain unaffected as if the rescinded process or circulars have never been rescinded.

All Members and the market participants are requested to take note of the same.

For and on behalf of
National Commodity & Derivatives Exchange Limited

Smita Chaudhary
Sr. Vice President – Arbitration & ISC

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ANNEXURE A
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CHAPTER 1. INVESTOR GRIEVANCE REDRESSAL MECHANISM

1. INVESTOR SERVICE CENTRES (ISC)

- 1.1 The Exchange has set up Investor Service Centre(s) (ISCs) at Mumbai, Delhi, Kolkata¹, and Hyderabad² to facilitate resolution of complaints received from the investor/client against Member(s) of the Exchange.
- 1.2 For the ease and benefit of investors/clients and with a view to provide administrative assistance to investors the following facilities have been made available by the Exchange at each of the abovementioned ISCs:-
 - i. 4 financial newspapers with at least one in the Regional language;
 - ii. Computer software which provides information about various commodities (agri and non agri) including research reports, general, financial & other important commodity related information coupled with dummy terminals through which investors can access this information. Other facilities like copying is available to the investors at minimum cost.
 - iii. Facilities for receiving/recording investor complaints- Facilities for registration of the complaints and counseling services to the investors through special staff recruited/deployed by the Exchange.
 - iv. Status of complaints will be maintained and updated in the computer system of the Center.
 - v. Other infrastructure facilities such as telephone, photocopier, furniture, sitting space, internet connection having access to various directions / circulars issued by SEBI and Government agencies etc.
 - vi. Published commodity related materials (including pamphlets / brochures detailing the rights and obligation of investors while dealing with brokers in commodity markets, FAQ's etc.) of exchanges for the benefit of the investors.
 - vii. Dummy terminals to display the prices of the commodities listed on the exchange on real-time basis, to enable investors watch the price movements of the commodities etc.
 - viii. A library on relevant laws, financial analysis, market trend analysis etc. for the education of the investors.

¹ NCDEX/INVESTOR SERVICES-004/2022 dated July 11, 2022

² NCDEX Circular No. NCDEX/LEGAL-003/2016/063 dated March 31, 2016 and NCDEX Circular NCDEX/INVESTOR SERVICES-002/2016/166 dated July 19, 2016.

2. INVESTOR COMPLAINTS

2.1 Available channels for filing Investor Complaints:- An Investor may lodge his/her complaint with the Exchange by availing either of the options enlisted below:-

- i. Directly at ISC Center through post/courier/by visiting the center, OR
- ii. By writing to the dedicated email Id of the Exchange- : ig@ncdex.com, OR
- iii. By registering their Arbitration and Appellate Arbitration applications using the link <https://isc.ncdex.com> or by visiting the Exchange website at <https://ncdex.com> >> Investor Service >> Investor Grievance >> Complaint Registration Form, OR
- iv. By lodging a complaint on the NCDEX Electronic System for Tracking Grievances-NEST a NEST - <https://isc.ncdex.com/> -. NEST³ is an online web-based investor grievance redressal system⁴ to facilitate clients and members in filing Complaints, Arbitration and Appellate Arbitration. Some of the salient features of the portal are as follows:
 - a. Registration of Complaints, Arbitration, Appellate Arbitration and Claims against defaulter members through the portal
 - b. Tracking status of complaints
 - c. Providing documents through the portal
- v. By registering their complaints on the SEBI Complaints Redress System (SCORES) portal at <https://www.scores.gov.in/scores/Welcome.html>. The complainant investor may use SCORES to submit the grievance directly to companies / intermediaries and the complaint shall be forwarded to the entity for resolution. The entity is required to redress the grievance within 30 days, failing which the complaint shall be registered in SCORES.⁵ Further, all members are advised to include procedure for filing of complaints on SCORES and benefits of the same in the welcome kit given to investors at the time of registration with them.⁶

2.2 Nature of Complaints⁷- Complaints against Trading Members which fall within the purview of the Exchange:

- i. Non-receipt/ delay in receipt of the Documents by the Trading Member (Contract

³ NCDEX Circular No. NCDEX/INVESTOR SERVICES-001/2023 dated January 12, 2023

⁴ NCDEX Circular No. NCDEX/INVESTOR SERVICES-003/2022 dated 06-Jul-2022 w.r.t. SEBI Circular No. SEBI/HO/MRD1/ICC1/CIR/P/2022/94 dated July 04, 2022

⁵ NCDEX Circular No. NCDEX/INVESTOR SERVICES-002/2018/092 dated April 06, 2018 wrt SEBI/HO/OIAE/IGRD/CIR/P/2018/58 dated March 28, 2018

⁶ NCDEX Circular No. NCDEX/INVESTOR SERVICES-001/2019 dated 08-July-2019.

⁷ NCDEX Circular No. NCDEX/INVESTOR SERVICES-003/2022 dated 06-Jul-2022 w.r.t. SEBI Circular No. SEBI/HO/MRD1/ICC1/CIR/P/2022/94 dated July 04, 2022

- Note, Bills,
- ii. Invoices, Statement of account, agreement copy etc.
 - iii. Non-receipt of balance funds from Trading member
 - iv. Close out / Square up of positions without intimation to client
 - v. Non-receipt of margin/security deposit given to the Trading Member (TM)
 - vi. Execution of Trades without client's authorization/ consent
 - vii. Closure of account/ branch,
 - viii. Technological issues,
 - ix. Shifting/closure of branch without intimation,
 - x. Improper service by staff,
 - xi. Freezing of account,
 - xii. Alleged debit in trading account,
 - xiii. Contact person not available in Trading member's office,
 - xiv. Demat account transferred without permission etc. and
 - xv. Any other Service related complaints

3. INVESTOR/ CLIENT GRIEVANCES REDRESSAL MECHANISM

- 3.1 On receipt of a complaint by the Exchange, if any additional information / documents are required, the same shall be sought by the Exchange from the complainant within 7 working days from the date of receipt of complaint. Such additional information shall be provided by the complainant in the form and manner requisitioned by the Exchange.
- 3.2 Once the information sought by the Exchange is received from the complainant, within the stipulated timeline, the complaint shall be registered and forwarded to the Member for their views/ clarifications and action, if any. The Exchange shall attempt to resolve the complaint within 15 working days from the date of receipt of additional information.
- 3.3 On receipt of complaint, Member shall immediately act upon the same and revert with the details of redressal (Responses and supporting documents) to the Exchange within the timelines specified by the Exchange in the communication sent to the member. ⁸
- 3.4 In case the matter does not get resolved within 15 working days by the Exchange from date of registration of complaint or the date of receipt of additional information sought as per point 3.1 above, the same shall be referred to the Grievance Redressal Panel ("GRP").

4. GRIEVANCE REDRESSAL PANEL(GRP)⁹

- 4.1 In order to facilitate expeditious redressal of investor/ client- grievances, the Exchange has

⁸ NCDEX Circular No. NCDEX/INVESTOR SERVICES-001/2021 dated January 01, 2021

⁹ Investor Grievance Redressal Committee (IGRC) has been renamed as the Grievance Redressal Panel as per Point X of the Gazette Notification of Securities Contract (Regulation) (Stock Exchanges and Clearing Corporations) (Amendment) Regulation, 2023 published on February 28, 2023.

constituted GRP for each ISC. The list of GRP Members is available on the website of the Exchange on the link given below:-

<https://www.ncdex.com/investor-grievances/grievance-redressal-committee-grc>

4.2 The GRP shall comprise of such persons with such qualifications as may be decided by the Exchange/ SEBI from time to time. The disclosures and Code of Conduct as specified by SEBI and/or the Exchange shall be applicable to members of GRP.

4.3 Composition of GRP¹⁰:

- i. The GRP shall comprise of a single person for claims up to Rs. 25 Lakh or such other amount as may be prescribed from time to time, whereas, for claims above Rs. 25 Lakh or such other amount as may be prescribed from time to time, the GRP shall comprise of three persons.
- ii. The GRP shall comprise of independent persons with qualifications in the area of law, finance, accounts, economics, management or administration and experience in financial services, including securities market.
- iii. Further, the three members Committee shall comprise of at least one technical expert for handling complaints related to technology issues (such as internet-based trading, algorithmic trading, etc).
- iv. The members of GRP shall not be associated with a trading member in any manner.
- v. Exchanges shall empanel GRP members, however, no arbitrator/ appellate arbitrator shall be empaneled as GRP member.¹¹

4.4 Code of Conduct for GRP Members: A GRP Member shall –

- i. act in a fair, unbiased, independent and objective manner;
- ii. maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharge of his duties;
- iii. disclose his interest or conflict in a particular case, i.e., whether any party to the proceeding had any dealings with or is related to the GRP Member;
- iv. not engage in acts discreditable to his responsibilities;
- v. avoid any interest or activity which is in conflict with the conduct of his duties as a GRP Member;
- vi. avoid any activity that may impair, or may appear to impair, his independence or

¹⁰ SEBI Circular No. CIR/CDMRD/DEICE/02/2015 dated November 16, 2015.

¹¹ NCDEX circular no: NCDEX/INVESTOR SERVICES-001/2017/173 dated 13-Jul-2017 w.r.t. SEBI Circular No. CIR/CDMRD/DEICE/CIR/P/2017/77 dated Jul 11, 2017.

objectivity;

- vii. conduct GRP proceedings in compliance with the principles of natural justice and the relevant provisions of the Arbitration and Conciliation Act, 1996, the SEBI Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Rules, Regulations and Bye-laws framed thereunder and the circulars, directions issued by the Government / SEBI;
- viii. endeavor to pass GRP Order expeditiously and in any case not later than the time prescribed in this circular; and
- ix. pass reasoned and speaking GRP Orders

5. REFERENCE OF COMPLAINT TO THE GRIEVANCE REDRESSAL PANEL (GRP)

- 5.1 In case the complaint does not get resolved within 15 working days from the date of receipt of the complaint/ additional information by the Exchange, the same shall be referred to the GRP at the ISC nearest to the address provided by the investor/ client in the KYC form.
- 5.2 Expenses of GRP shall be borne by the Exchange and no fees shall be charged to the complainant/member.
- 5.3 The hybrid mode (i.e., online and offline) of conducting GRP shall be continued with.¹²
- 5.4 A two-fold approach shall be adopted by the GRP i.e. (i) proceedings leading to direction to the Member to render required service in case of service related complaints and (ii) proceedings leading to an order concluding admissibility of the complaint or otherwise in case of trade related complaints
- 5.5 The complaint shall be amicably resolved through conciliation by GRP within 15 working days of reference to GRP. If additional information is required by the Panel then the same shall be provided to the GRP, upon request, before the initiation of the conciliation process. In such cases, where additional information is sought, the complaint shall be resolved by GRP within 30 working days from receipt of such additional information.¹³
- 5.6 The Members/ complainants shall be required to co-operate by remaining present for the GRP meeting and ensure that the authorized representative appearing before the GRP is adequately empowered to take decisions at the meeting.
- 5.7 No complaint shall be disposed on the grounds of “Lack of information and complexity of the case”. GRP shall give recommendation to the Exchange.
- 5.8 GRP shall decide claim value admissible to the complainant, upon conclusion of the proceedings of GRP.

6. IMPLEMENTATION OF GRP ORDER/DIRECTION

¹² NCDEX Circular No. NCDEX/INVESTOR SERVICES-003/2022 dated 06-Jul-2022 w.r.t. SEBI Circular No. SEBI/HO/MRD1/ICC1/CIR/P/2022/94 dated July 04, 2022

¹³ NCDEX circular no: NCDEX/INVESTOR SERVICES-001/2017/173 dated 13-Jul-2017 w.r.t. SEBI Circular No. CIR/CDMRD/DEICE/CIR/P/2017/77 dated Jul 11, 2017

- 6.1 Upon receipt of the GRP direction/order, for cases where the GRP has decided admissible claim in favour of the Investor, 100%¹⁴ of the amount decided as admissible by the GRP shall be blocked out of the deposits of the Member available with the Exchange or in case where the member authorizes the Exchange to utilize the deposit available with the Clearing Corporation, the deposits available with the Clearing Corporations shall be utilized.
- 6.2 If on account of such blocking, the deposits of the Member fall below the requirement, the Members' ability to trade may get impacted. Intimation of blocking will be given to Member by the Exchange.
- 6.3 The Member has to inform the Exchange through a letter / e-mail id of their compliance officer / dedicated e-mail Id as to whether the member intends to pursue the next level of resolution i.e. Arbitration, within seven (7) calendar days from the date of receipt of the GRP direction/order.¹⁵
- 6.4 In case, the GRP order is in favour of client and the Member opts for arbitration against the GRP order and the claim value admissible to the investor/ client is not more than Rs. 20 lakhs (Rs. Twenty lakhs)¹⁶, then, monetary relief shall be released to the investor/ client in the manner stated at point 6 of Chapter 4 herein or as may be stipulated by SEBI from time to time¹⁷:
- 6.5 If no intimation is received within the aforesaid seven calendar days, the amount decided as admissible by the GRP shall be released to the investor out of the amount blocked from the Member's deposits available with the Exchange / Clearing Corporation. Intimation of release will be given to Member. If confirmation of settlement of claim is received from the Investor before the release of funds to the Investor by the Exchange, the amount blocked shall be refunded / unblocked to the Member.
- 6.6 In cases where the member, upon providing its intention to pursue Arbitration, does not file an arbitration application within six months from the date of GRP direction/order, the blocked amount shall be released to the Investor. In such cases, the Exchange shall not be liable to refund or recover the amount paid to the Investor(s) towards the implementation of the GRP Order.

¹⁴ NCDEX Circular No. NCDEX/INVESTOR SERVICES-001/2021 dated January 01, 2021

¹⁵ NCDEX Circular No. NCDEX/INVESTOR SERVICES-001/2021 dated January 01, 2021

¹⁶ NCDEX Circular No. NCDEX/INVESTOR SERVICES-003/2021 dated October 26, 2021 w.r.t SEBI Circular No. SEBI/HO/CDMRD/DoC/P/CIR/2021/649 dated October 22, 2021.

¹⁷ NCDEX circular no: NCDEX/INVESTOR SERVICES-001/2017/173 dated 13-Jul-2017 w.r.t. SEBI Circular No. CIR/CDMRD/DEICE/CIR/P/2017/77 dated Jul 11, 2017

CHAPTER 2. ARBITRATION MECHANISM

1. REGIONAL ARBITRATION CENTRES (RACs):-

- 1.1 The Exchange has set up the following Regional Arbitration Centres (RACs) having designated venue and seats¹⁸ of Arbitration and Appellate Arbitration to facilitate the receipt and conduct of Arbitration proceedings at the Exchange:-

ISC	RAC	Venue and Seat of Arbitration/ Appellate Arbitration	Regional segmentation
New Delhi	New Delhi	New Delhi	Delhi, Haryana, Uttar Pradesh, Uttarakhand, Himachal Pradesh, Punjab, Jammu & Kashmir, Chandigarh, Ladakh, Rajasthan
Mumbai	Mumbai	Mumbai	Maharashtra, Goa, Daman, Diu, Dadar & NagarHaveli, Madhya Pradesh, Gujarat
Kolkata	Kolkata	Kolkata	West Bengal, Bihar, Jharkhand, Odisha, Assam, Arunachal Pradesh, Mizoram, Manipur, Sikkim, Meghalaya, Nagaland, Tripura, Chhattisgarh
Hyderabad	Hyderabad	Hyderabad	Andhra Pradesh, Telangana, Karnataka, Kerala, Tamil Nadu, Andaman & Nicobar, Lakshadweep, Puducherry

2. REFERENCE TO ARBITRATION

- 2.1 The Exchange shall facilitate arbitration for such disputes between the parties as mentioned in the provision of its Bye-laws, including the arbitration reference filed by the Member against the order of the Grievance Redressal Panel (GRP), by adopting such procedures as prescribed in the Bye-laws, Rules and Regulations of the Exchange. For any dispute between the Member and Client relating to or arising out of the transactions in Exchange, which is of civil nature, the member shall first refer the complaint to arbitration mechanism provided by the Exchange before resorting to other remedies available under any other law. For the removal of doubts, it is clarified that the sole arbitrator or the panel of arbitrators, as the case may be, appointed under the Exchange arbitration mechanism may consider any claim relating to any dispute between a Member and client arising out of the transactions in Exchange, as per law, and shall always be deemed to have the competence to rule on its jurisdiction.¹⁹
- 2.2 A complainant/member, who is not satisfied with the recommendation of the GRP, shall avail

¹⁸ NCDEX Circular No. NCDEX/INVESTOR SERVICES-002/2023 dated March 31, 2023

¹⁹ NCDEX Circular No. NCDEX/INVESTOR SERVICES-002/2022 dated June 24, 2022 w.r.t. SEBI/HO/MIRSD/DOS3/P/CIR/2022/78 June 3, 2022 and SEBI/HO/MIRSD/DOC/CIR/P/2020/226 November 06, 2020

the arbitration mechanism of the Exchange for settlement of complaints within Three (3) months²⁰ from the date of GRP recommendation.

- 2.3 The time period of three months mentioned above for filing arbitration shall be applicable only for the cases where the GRP recommendation is being challenged. For any arbitration application received without going through GRP mechanism, the above time period of three months shall not apply, and for such cases the limitation period for filing arbitration shall be governed by the law of limitation, i.e., The Limitation Act, 1963.

3. CRITERIA FOR EMPANELMENT OF ARBITRATORS ON THE EXCHANGE

- 3.1 The Exchange has maintained a panel of arbitrators. The number of arbitrators in the panel shall commensurate to the number of disputes so that an arbitrator handles a reasonable number of references simultaneously and all arbitration references are disposed of with the prescribed time.
- 3.2 While deciding to include a particular person in the panel of arbitrators, the Exchange shall take into account the following factors:
- i. Age,
 - ii. Qualification in the area of law, finance, accounts, economics, management, or administration, and
 - iii. Experience in financial services, including securities market.
- 3.3 The Arbitrators empaneled by the Exchange shall be included in the common pool of arbitrators so that a client or a member of the Exchange shall be entitled to choose arbitrator(s) from the common pool of arbitrators maintained by the National Commodity Derivatives Exchanges in pursuance of the directions issued by the SEBI.
- 3.4 The Arbitrator(s) is/are appointed through “Automatic Process” for selection of Arbitrators from common pool of Arbitrators of National Commodity Derivatives Exchanges.
- 3.5 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 its website.
- 3.6 There shall be no separate panels for arbitration and appellate arbitration. If the matter goes to appeal, the Arbitrators who have served on the arbitration panel shall not be considered for serving on the appellate arbitration panel. Further, for appellate arbitration, at least one member of the panel shall be a Retired Judge. The Exchange shall obtain prior approval of SEBI before empanelment of arbitrators/ appellate arbitrators.²¹

4. CODE OF CONDUCT FOR ARBITRATORS

- 4.1 Persons appointed as arbitrators shall:-

²⁰ NCDEX Circular No. NCDEX/INVESTOR SERVICES-002/2022 dated June 24, 2022 w.r.t. SEBI/HO/MIRSD/DOS3/P/CIR/2022/78 June 3, 2022 and SEBI/HO/MIRSD/DOC/CIR/P/2020/226 November 06, 2020

²¹ NCDEX Circular No. NCDEX/INVESTOR SERVICES-003/2021 dated October 26, 2021 w.r.t SEBI Circular No. SEBI/HO/CDMRD/DoC/P/CIR/2021/649 dated October 22, 2021.

- i. act in a fair, unbiased, independent and objective manner;
- ii. maintain the highest standards of personal integrity, truthfulness, honesty and fortitude in discharge of his/her duties;
- iii. disclose his/her interest or conflict in particular case i.e whether any party to the proceeding had any dealing with or related to the arbitrator;
- iv. not engage in acts discreditable to his/her responsibility;
- v. avoid any interest or activities which is in conflict with the conduct of his/her duties as an arbitrators;
- vi. avoid any activity that may impair, or may appear to impair, his/her independence or objectivity
- vii. conduct arbitration proceedings in compliance with the principles of natural justice and the relevant provisions of the Arbitration and Conciliation Act, 1996, the SEBI Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Rules, Regulations and Bye-laws framed thereunder and the circulars, directions issued by the Government / SEBI;
- viii. endeavour to pass arbitral award expeditiously and in any case not later than the time prescribed in this circular; and
- ix. pass reasoned and speaking arbitral award.

5. PROCEDURE FOR FILING ARBITRATION

5.1 Applicant's obligation:-

- i. The Applicant shall submit to the Exchange the application for arbitration in Form No. I, along with the following enclosures:
 - a. The Statement of Case (containing all the relevant facts about the dispute and relief sought)
 - b. The Statement of Accounts in proof of claim.
 - c. Copies of Member - Constituent Agreement
 - d. Copies of the relevant Contract Notes, Invoice and Delivery Challan.
- ii. The Applicant shall submit three sets of applications in case of a sole arbitrator and six sets in case of arbitral tribunal.
- iii. The Applicant shall also submit to the Exchange the following along with Form No. I.
 - a. A cheque/NEFT/online mode/pay order/demand draft for the deposit payable as arbitration fees at the seat of arbitration in favor of National Commodity and Derivatives Exchange of India Limited. The applicant shall pay prescribed fee deposit as per paragraph 9 below.
 - b. Form No. II containing list of names of the persons eligible to act as arbitrators.
- iv. If any deficiency/defect in the application is found, the Exchange shall call upon the Applicant to rectify the deficiency/defect and the Applicant shall rectify the deficiency/defect within 15 days of receipt of intimation from the Exchange.

- v. If the Applicant fails to rectify the deficiency/defect within the prescribed period, the deficient/defective application shall be returned to the Applicant Exchange
- vi. The Applicant shall have the right to file a revised application, which shall be considered as a fresh application for all purposes and be dealt with accordingly by the Exchange.

5.2 Respondent's obligation

- i. Upon receipt of Form No.I the Exchange shall forward a copy of the statement of case and related documents mentioned in clause (a) to the Respondent.
- ii. Upon receiving Form No. I, the Respondent shall submit Form II to the Exchange within 15 days from the date of receipt. If the Respondent fails to submit Form II within the time period prescribed by the Exchange, then the arbitrator shall be appointed in the manner as specified in the above.
- iii. Upon receiving Form No II from the Respondent, the arbitrator shall be appointed by the Exchange as per the procedure.
- iv. The Respondent(s) shall, within 15 days from the date of receipt of Form No I from the Exchange submit to the Exchange Form No. III along with the following enclosures:
 - a. The Statement of Reply (containing all available defenses to the claim).
 - b. The Statement of Accounts.
 - c. Copies of the Member Constituent Agreement.
 - d. Copies of the relevant Contract Notes, Invoice and Delivery Challan etc.
 - e. Statement of the set-off or counter claim along with statements of accounts and copies of relevant contract notes and bills etc.
- v. The Respondent shall submit three sets of Applications in case of Sole arbitrator and 5 sets in case of Arbitral tribunal.
- vi. The Respondent shall also submit to the Exchange a cheque /pay order/NEFT/online mode/demand draft for the fee / charges payable as arbitration fees at the seat of arbitration in favor of Multi Commodity Exchange of India Limited along with Form No. III. The applicant shall pay prescribed fee deposit as per point 9 below.
- vii. In case the Respondent fails to submit Form III within the prescribed time, the arbitrator may proceed with the arbitral proceedings and make the award ex-parte.
- viii. Upon receiving Form No. III from the Respondent the Exchange shall forward one copy to the Applicant.
- ix. The Applicant shall within 15 days from the date of receipt of copy of Form III Submit to the Exchange, a reply to any counterclaim, if any, which may have been raised by the Respondent in its reply to the Applicant.

- x. The Exchange shall forward the reply to the Respondent.
- xi. The time period for filing any pleading referred to herein may be extended for such further periods as may be decided by the Exchange in consultation with the arbitrator depending on the circumstances of the matter.
- xii. Where any claim, difference or dispute arises between agent of the Member and Client of the agent of the Member, in such claim, difference or dispute, the Member to whom such agent of the Member is affiliated, shall be impleaded as a party.
- xiii. All claims, difference or disputes pertaining to additional facilities, incidental or ancillary in nature, including but not limited to Electronic Negotiable Warehouse Receipt (“ENWR”) may be referred to arbitration in accordance with Rules, Bye Laws and Regulations of the Exchange.²²

6. FORMS

- 6.1 All the relevant forms are notified by way of circulars issued from time to time and the same are made available on the Exchange website at the following link:

<https://ncdex.com/investors/arbitration-forms>

7. PROCEDURE FOR APPOINTMENT OF ARBITRATOR BY PARTIES THROUGH THE AUTOMATIC PROCESS

- 7.1 Appointment of Arbitrators from the Common Pool of Arbitrators²³
- i. The Exchange has uploaded on its website, the details of common pool of arbitrators for each Regional Arbitration Centres (RACs)²⁴ consisting of the Arbitrators appointed by the Exchange and other National Commodity Derivatives Exchanges.
 - ii. The Applicant and the Respondent shall, as per the Place of Arbitration, submit to the Exchange in the order of descending preference, names of such number of persons as specified hereunder from amongst the common pool of arbitrators maintained by the National Commodity Derivatives Exchanges.
 - iii. In case of Claim upto Rs.25 Lakhs, the Applicant and the Respondent shall each provide their preferences of At least three (3) Arbitrators.
 - iv. In case of Claim above Rs.25 Lakhs, the Applicant and the Respondent shall each provide their preferences of at least three (3) Arbitrators or a maximum of five (5) names.
 - v. Such names shall be submitted in Form No. II by the Applicant along with Form No. I.
 - vi. The Respondent shall submit the names in Form No. II within fifteen (15) days of

²² Clause 31(a) of Gazette Notification in Part IV of weekly Gazette dated December 24, 2022 of Gazette of India and Part II of weekly Gazette dated December 15, 2022 of State Gazette of Maharashtra

²³ NCDEX Circular No. NCDEX/LEGAL-003/2016/063 w.r.t. SEBI Circular No. CIR/CDMRD/DIECE/02/2015 dated November 16, 2015

²⁴ NCDEX Circular No. NCDEX/INVESTOR SERVICES-002/2023 dated March 31, 2023

the receipt of Form No. I from the Exchange.

- vii. Upon receiving the Form No. II from both the Applicant as well as the Respondent, the appointment of Arbitrator(s) shall be made on the basis of names preferred by the parties.
- viii. If the Applicant and Respondent fail to choose the Arbitrator(s) from the Common Pool, the Arbitrator(s) will be chosen by an 'Automatic Process'²⁵ wherein neither the parties to arbitration (i.e. client or member) nor the concerned Exchanges will be directly involved.
- ix. The 'Automatic Process' will entail a randomized, computer-generated selection of Arbitrator, from the list of Arbitrators in the Common Pool. The selection process shall be in chronological order of the receipt of arbitration reference i.e. only after selecting an arbitrator for the former arbitration reference received, selection for the latter shall be taken up.
- x. The 'Automatic Process' will send a system generated, real time alert (SMS, email etc.) to all entities involved in the particular case. Further, the communication for the appointment of the Arbitrator will be sent immediately and in any case not later than the next working day from the day of picking of the Arbitrator. This communication will be sent by the exchange on which the dispute had taken place, to all concerned entities including clients, arbitrators, members, exchanges etc.
- xi. In case of any probable conflict of interest in an arbitration reference being assigned to any Arbitrator the Arbitrator will have to upfront decline the arbitration reference. After the said arbitrator declines, the 'automatic process' will pick the name of another Arbitrator. This will continue till the time there is no conflict of interest, by the selected arbitrator. The arbitrator(s) shall be appointment within 30 days from the date of receipt of complete application from the Applicant. However, the timeline can be extended and exchanges shall put on record the reasons of such extension.

8. VACANCY IN THE OFFICE OF THE ARBITRATOR

- 8.1 In case office of the sole arbitrator or any one or more of the arbitrators in the panel of arbitrators falls vacant after the appointment thereto, and before making the arbitral award due to illness, death or termination the vacancy shall be filled up by the Exchange through an automatic process.
- 8.2 For the purpose of the above, the list of names of eligible persons in Form No II already submitted by the Applicant and by the Respondent shall be considered.
- 8.3 If no such eligible persons are available, the applicant and respondent shall submit Form No.II again with fresh names.

9. FEES AND CHARGES

- 9.1 The arbitration fee (exclusive of statutory dues - stamp duty, service tax, etc.), as prescribed below, collected by the Exchange from the parties, shall be utilized to pay Arbitrator(s) Fees. In case the arbitrators' fees are greater than the Arbitration Fees/deposits collected from the parties, the additional expense in case of client shall be borne by the Exchange and client

²⁵ NCDEX Circular No. NCDEX/LEGAL-003/2016/063 w.r.t. SEBI Circular No. CIR/CDMRD/DIECE/02/2015 dated November 16, 2015

equally and in case of member²⁶, it shall be borne by the concerned member: :

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 ²⁷ 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

Note: Six months (as referred to in para 6.1 above) shall be computed from the end of the quarter during which the disputed transaction(s) was/were executed/ settled, whichever is relevant for the dispute, and after excluding:-

- i. The time taken by the GRP from the date of receipt of dispute till the decision by the Committee to resolve the dispute under the Bye-laws, Rules, and Regulations of the Exchange.
- ii. The time taken by the Member to attempt the resolution of the dispute (the time from the date of receipt of dispute by the Member to the date of receipt of the member's last communication by the client) or one month from the date of receipt of the dispute by the Member, whichever is earlier.

9.2 The arbitrator fee is upwardly revised to Rs.18,000/- (Rupees Eighteen Thousand) per arbitrator. The fees and expenses payable to arbitrator shall be as determined by the Regulator from time to time.

9.3 In order to discourage delayed filing by Members, the additional fees payable by Members who file their claim beyond the prescribed time-lines shall be non- refundable even if the Arbitration Award goes in favor of the Member. The additional fees charged from the trading members, if the claim is filed beyond the prescribed timeline, if any, to be deposited in the IPF of the Exchange.

9.4 In addition to the above, the following arbitration cost will be collected from the parties:

- i. Typing fee: Rs.500/-

²⁶ NCDEX circular no: NCDEX/INVESTOR SERVICES-001/2017/173 dated 13-Jul-2017 w.r.t. SEBI Circular No. CIR/CDMRD/DEICE/CIR/P/2017/77 dated July 11, 2017

- ii. A fixed amount of Rs. 1500/- shall be taken as advance from the Claimant towards applicable Stamp Duty on the anticipated Arbitral Award. Stamp Duty over and above the fixed amount mentioned above, if made payable as per the direction contained and recorded in the Arbitration Award shall be payable by the concerned party. It shall not be the responsibility of the exchange to ensure complete payment of stamp duty by the Claimant/Applicant.

OR

The applicable stamp duty/statutory cost calculated on the basis of the claim amount shall be taken as advance from the Claimant towards applicable Stamp Duty on the anticipated Arbitral Award. It is clarified that the Stamp Duty on the basis of Ad valorem will be determined as per the State Stamp Act aligned with the Place of Arbitration.

- 9.5 A client, who has a claim / counter claim up to Rs.20 lakhs (Rupees Twenty Lakhs)²⁸ and files arbitration reference, shall be exempted to the extent of filing deposit, however client shall contribute to the additional charges (as applicable). Further, in such case, if award is NIL/Partial award, arbitrator's fee will be recovered from the member's deposit.
- 9.6 In all cases, on issuance of the arbitral award the Exchange shall refund the deposit/Arbitrator(s) Fee to the party in whose favour the award has been passed.
- 9.7 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, shall be deposited in the IPF of the Exchange.
- 9.8 A party filing an appeal before the appellate panel shall pay a fee as may be prescribed by the Exchange/ SEBI, in addition to statutory dues (stamp duty, service tax, etc) along with the appeal and would be payable by appellant and is not refundable. If the appellant is a client, the additional expense shall be borne by the client and Exchange equally. The total expense attributable to the Member has to be borne by the concerned Member
- 9.9 If the respondent being a constituent fails, neglects or refuses to make a deposit, the Applicant shall be responsible for making such deposit, without prejudice, however, to its right to recover the same from such Respondent in terms of the award.
- 9.10 The Exchange shall have the right to recover the deposit from the Member from the monies lying to the credit of account of the member with the exchange, if the Member fails to make the deposit. In case of failure by the party making the reference to provide such deposit and if the amount lying with the Exchange to the account of the member being insufficient to meet the requirement, the arbitration proceedings may be suspended up to a period of 15 days and where such suspension continues beyond such period by reason of non-payment, the proceedings shall be terminated forthwith in respect of the claim or counter claim as the case may be. Provided, in case of deactivated or absconding Member(s), who does not have sufficient fund to meet the prescribed Arbitration fees requirement in respect of Arbitration reference filed by the constituent(s) / client(s), the arbitration fees of such Member(s) shall be borne by the Exchange, which may be subsequently reimbursed from the Investor protection Fund of the Exchange.
- 9.11 In any claim, difference or dispute to which an agent (Authorized Person (AP)) of the Member is a party, if the agent of the Member fails to make the deposit with the Exchange in accordance with the above provisions, then the Member to whom such agent of the Member is affiliated shall be liable to make the deposit with the Exchange.
- 9.12 The costs, if any, to be awarded to either of the party in addition to the fees and charges that

²⁸ NCDEX/INVESTOR SERVICES-003/2022 dated July 06, 2022

have to be borne by the parties for conducting the arbitration shall be decided by the arbitrator.

9.13 All deposits towards costs and expenses shall be made with the Exchange and no payment shall be made to the arbitrators directly by the parties.

9.14 Unless the arbitrator directs otherwise each party shall bear their own expenses of traveling and other incidental expenses incurred.

10. PLACE OF ARBITRATION

10.1 The place of Arbitration with respect to a dispute referred for Arbitration at the Exchange shall be the RAC nearest to the registered address of the constituent as appearing in the KYC form. 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 such regional centre.

10.2 In case, the award amount is more than Rs. 50 lakhs (Rs. Fifty lakhs), the next level of proceedings (arbitration or appellate arbitration) may take place at the nearest metro city, if so desired by any of the parties involved. The additional statutory cost for arbitration, if any, shall be borne by the party desirous of shifting the place of arbitration.²⁹

10.3 For all purposes of the Arbitration, the facilities available at the four RACs mentioned at 1.1 above shall be utilised. The proceeding i.e. Arbitration/Appellate Arbitration, for all parties concerned, shall lie at the venue and seat of Arbitration aligned to the designated RAC where the subject dispute was admitted or initially heard, whichever is applicable.

10.4 Objections, if any, with respect to the seat of arbitration shall be considered, only if submitted in writing by the requesting party prior to the appointment of Arbitrator(s) to the reference matter. Such objections shall be filed at the Arbitration stage only. Non-participation by any party in the process of appointment of Arbitrator shall not imply objection to seat of Arbitration.

11. REQUIREMENT FOR HEARINGS

11.1 No hearing shall be required to be given to the parties to the dispute if the value of the claim difference or dispute is Rs. 75,000/- or less. In such a case the arbitrator/s shall proceed to decide the matter on the basis of documents submitted by both the parties. Provided however the arbitrator, for reasons to be recorded in writing, may hear both the parties to the dispute.

11.2 If the value of claim, difference or dispute is more than Rs.75,000/-, the arbitrators shall offer to hear the parties to the dispute unless both parties waive their right for such hearing in writing.

11.3 Exchanges shall continue with the hybrid mode (i.e., online and offline) of conducting arbitration / appellate arbitration process.

12. NOTICE OF HEARING

12.1 Unless otherwise specified, the Exchange shall in consultation with the arbitrator determine the date, the time and place of the first hearing. Notice for the first hearing shall be given at

²⁹ NCDEX Circular No. NCDEX/INVESTOR SERVICES-003/2021 dated October 26, 2021 w.r.t SEBI Circular No. SEBI/HO/CDMRD/DoC/P/CIR/2021/649 dated October 22, 2021

least three days in advance, unless the parties, by their mutual consent, waive the notice. The arbitrator shall determine the date, the time and place of subsequent hearings of which the Exchange shall give a notice to the parties concerned.

- 12.2 The arbitrator/s may commence, proceed with, continue or conclude the reference notwithstanding any failure by a party to comply with any of the directions of the arbitrator/s and may also proceed with the arbitral proceedings in the absence of any or both the parties who fail or neglect to attend at the time and place appointed by the arbitrator/s, in spite of due notice.
- 12.3 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 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.

13. ARBITRAL AWARD

- 13.1 The arbitration reference shall be concluded by way of issue of an arbitral award within four months from the date of appointment of arbitrator(s).
- 13.2 The arbitral award shall be in writing and made in three originals duly dated and signed.
- 13.3 The arbitrator shall file all the three original awards with the Exchange, which shall arrange to send one original each to the parties to the dispute and the Exchange shall retain the stamped original award. In case there are more than one Respondent, one Original shall be sent to the first respondent and photocopies of the award shall be sent to the remaining respondent, duly certified.
- 13.4 The rate of interest on the award passed by arbitrators shall be in compliance with Arbitration and Conciliation (Amendment) Act, 2015.

14. APPELLATE ARBITRATION

- 14.1 A party aggrieved by an arbitral award may appeal to the appellate panel of arbitrators of the Exchange against such award.
- 14.2 An appeal before the appellate panel of arbitrators may be filed within one month from the date of receipt of arbitral award in physical copy.
- 14.3 The appellate panel shall consist of three arbitrators who shall be different from the ones who passed the arbitral award appealed against.
- 14.4 The appellate Arbitrators shall be appointed within 30 days from the date of receipt of application for appellate arbitration.
- 14.5 The appeal shall be disposed of within three months from the date of appointment of appellate panel of such appeal by way of issue of an appellate arbitral award.
- 14.6 A party aggrieved by the appellate arbitral award may file an application to the Court of competent jurisdiction in accordance with Section 34 of the Arbitration and Conciliation Act, 1996.

15. IMPLEMENTATION OF ARBITRAL AWARD IN FAVOUR OF CLIENTS

- 15.1 In case the arbitral/ appellate arbitral award is in favour of the client, the Exchange shall, on receipt of the same, debit the amount of the award from the security deposit or any other monies of the member (against whom an award has been passed) and keep it in a separate escrow account or in the form of FDR/BG under lien of the Exchange.
- 15.2 The Exchange shall implement the arbitral award, by making payment to the client, as soon as the time for preferring an appeal before the appellate panel of arbitrators has expired and no appeal has been preferred.
- 15.3 The Exchange shall implement the appellate arbitral award, by making payment to the client, as soon as
- i. the time for making an application to a Court to set aside such appellate arbitral award under Section 34 of the Arbitration and Conciliation Act, 1996 has expired, and no application has been made, or
 - ii. when an application to a Court to set aside such appellate arbitral award under Section 34 of the Arbitration and Conciliation Act, 1996, having been made, it has been refused by such Court, or
 - iii. an application to a Court to set aside such appellate arbitral award under Section 34 of the Arbitration and Conciliation Act, 1996, having been made, but where no stay has been granted by such Court within a period of three months from the date on which the party making the application had received the appellate arbitral award.

16. COUNTER-CLAIM AND REPLY TO COUNTER-CLAIM

- 16.1 The Respondent in arbitration proceedings may make a counter-claim against the Claimant provided the counter-claim arises under the same transaction as the original claim. The Respondent shall submit the counterclaim if any with full details supported by all documents and information forming the basis of counterclaim within at or before the first hearing of the reference, but not afterwards unless specifically permitted by arbitral tribunal. The original Claimant may, within such period, or within such extended time as may be permitted by the arbitrator/s, submit a statement in reply to the counter-claim.

17. COMBINING OF CLAIMS

- 17.1 Where there are two or more applications for arbitration and the issue involved in the dispute arises out of similar transactions, the Arbitrator(s) may, if in his/her/thier opinion it is proper to do so, with the consent of the parties, fix the hearings of the disputes to be heard jointly or refer the applications for separate hearings where the parties do not so consent.
- 17.2 Where the applications are heard jointly, the awards, however, shall be given separately for each reference.

18. DUTY OF THE PARTIES TO THE DISPUTE

- 18.1 The parties shall do all acts necessary to enable the arbitrator to make an award expeditiously and shall not do or cause or allow to be done, any act which may delay the proceedings or prevent arbitrators from making an award expeditiously, and if any party does cause or allow to be done any act that may cause such delay, that party shall pay such costs as the arbitral tribunal deems reasonable.

CHAPTER 3. ADDITIONAL COMPLIANCE MEASURES FOR MEMBERS

1. INVESTOR CHARTER³⁰

- 1.1 In order to enhance the effectiveness of investor awareness about various activities which an investor deals with such as opening of account, KYC and in person verification, complaint resolution, issuance of contract notes and various statements, process for dematerialization/rematerialization etc., SEBI has prepared an Investor Charter for Members and directed to all members to:-
- i. bring this Investor Charter to the notice of all their clients by disclosing it on their respective website, making them available at prominent places in the offices, provide a copy of Investor Charter as a part of account opening kit to the clients, through e-mails/ letters etc. in the manner prescribed.
 - ii. disclose the data on complaints received against them or against issues dealt by them and redressal thereof, latest by 7th of succeeding month on the website in the format prescribed.

2. ESCALATION MATRIX³¹

- 2.1 To further strengthen the process of handling Investors Grievances, members are advised to take the below measures:
- i. Multiple modes of communication should be made available to the investors, with a view to ensure seamless process in raising the complaints.
 - ii. Strengthen the complaint redressal mechanism by hiring qualified / dedicated trained resource, impart adequate trainings for better handling and suitable closures.
 - iii. Investor Grievances escalation matrix to be explicitly displayed on the website and mobile application under the 'Contact Us' page. The 'Contact Us' link should be placed on the index/homepage of the website. Upon clicking the same, it should display the detail in the manner as prescribed.³²
 - iv. Escalation matrix should also be a part of the complaint redressal communications between the members and Investors
 - v. Acknowledgment should be sent to the investor, once the grievance is received / escalated / resolved and should state the Service ticket / Complaint reference number in it.

³⁰ NCDEX Circular dated NCDEX/INVESTOR SERVICES-005/2021 dated 06-Dec-2021 read with NCDEX/INVESTOR SERVICES-006/2021 dated 16-Dec-2021 w.r.t SEBI Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2021/676 dated December 7, 2021

³¹ NCDEX/INVESTOR SERVICES-006/2022 dated December 07, 2022

³² NCDEX/INVESTOR SERVICES-005/2022 dated November 10, 2022.

- vi. Members, who are also a Depository Participant, shall provide separate escalation matrix for Demat related queries. In case they have a common grievance handling unit, they may display the common Escalation matrix as stated under point 'iii' above.
- vii. Enhance Investor education vide educational videos, webinars etc.
- viii. Provide regular updates to investors on changes in rules/regulations through support portals.
- ix. Details of services provided to clients may be displayed on homepage of the website.
- x. Automate procedural requirements by online submission and acceptance of forms & KYC related matters
- xi. Regular system audits to reduce the occurrence of technical issues and downtimes.
- xii. The Exchange has also prescribed a penalty structure³³ for Non-compliance w.r.t publishing of Investor Grievance Escalation Matrix on website and the same is given below:-

Particulars	Action/Charges
Non-compliance of circular No. NCDEX/INVESTOR SERVICES-005/2022 w.r.t publishing of Investor Grievance Escalation Matrix on website by the Members	<p>Letter of observation shall be issued to the trading member, providing a period of 15 days from the date of issuance of the letter of observation to comply with the said requirement.</p> <p>In case, the member fails to confirm the compliance of the same within the aforementioned period of 15 days, a penalty of Rs. 1,000/- per day shall be levied till the member complies with the circular to the satisfaction of the Exchange.</p> <p>If the member fails to comply with the above directive for two months (from the date of issuance of observation letter), the matter shall be placed before the relevant committee for further directions.</p>

3. INTEGRATION OF INVESTOR COMPLAINTS³⁴

- 3.1 The members are required to submit the details of the direct complaints received by them (through any channel) in the format as prescribed.
- 3.2 Members are requested to upload the details of all complaints pending as on March 31, 2023, along with complaints received by them during the month of April 2023, by May 07, 2023. Subsequently, the details of complaints shall be submitted on monthly basis within seven days of the subsequent month.

³³ NCDEX/INVESTOR SERVICES-006/2022 dated December 07, 2022

³⁴ NCDEX Circular No. NCDEX/INVESTOR SERVICES-003/2023 dated 18-April-2023

- 3.3 Further, in circumstances wherein there is no opening balance of complaints at the beginning of the month and no complaints are received during the month, the members are requested to upload file with comments 'Nil submission'.

4. UNAUTHORISED TRADES PENALTY³⁵

- 4.1 In case GRP order/ Arbitration award is passed against the member and the complaint pertains to unauthorized trades, penalty as per below structure shall be levied:

Details of contravention	Penalty structure
Unauthorized trading determined by IGRP /Arbitration when there is no appeal Unauthorized or Illegal trading activities /fictitious transactions	a) Monetary fine of Rs. 1 lakh; b) 50% escalation in case of 3 cases of unauthorized trading in the same FY. c) In case of 4 cases or more in the same FY – In addition to the above penalty, registration of new clients & APs to be disallowed for 1 month

5. DEFAULTER CLIENTS DATABASE

- 5.1 The Exchange has created a common database of defaulting clients accessible to members across the Exchanges. For this purpose, a client shall be identified as defaulter if the client does not pay the award amount to the member as directed in the Arbitration/ Appellate Arbitration Order/ Award and also does not appeal at the next level of redressal mechanism (as applicable) 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).³⁶

6. RECOVERY OF DEBIT BALANCE FROM CLIENTS OF DEFAULTER MEMBER³⁷

- 6.1 In the case of default by Trading Member/Clearing Member, in certain cases there is shortfall of funds/securities with defaulter member to meet the obligation of clients / Exchange / Clearing Corporation. The bye-laws of Exchange/Clearing Corporation provide for the procedure for declaring a member as defaulter when, amongst other reasons, the member is not able to fulfil its obligations and also provide for initiation of proceedings in a court of law whenever a member is declared as a defaulter and there is a shortfall of funds/securities with the defaulter member.
- 6.2 In view of the above, SEBI has advised Exchanges to initiate suitable actions for liquidating the assets (movable and immovable) of defaulter member including that of debit balance clients (to the extent of debit balance), within six months of declaration of defaulter, for recovery of the assets not in possession of the Exchange/Clearing Corporation, before appropriate court of law.

³⁵ NCDEX Circular No. NCDEX/COMPLIANCE-020/2017/285 dated October 31, 2017

³⁶ NCDEX Circular No. NCDEX/INVESTOR SERVICES-003/2018/212 dated August 30, 2018

³⁷ NCDEX Circular No. NCDEX/COMPLIANCE-057/2020 dated September 30, 2020 wrt SEBI/HO/MIRSD/DPIEA/CIR/P/2020/186 dated September 28, 2020

CHAPTER 4. INVESTOR PROTECTION FUND (IPF) INVESTOR SERVICE FUND (ISF) AND OTHER RELATED MATTERS

1. MANNER OF FILING/INVITING CLAIMS FROM INVESTOR CLIENTS³⁸

- 1.1 The Exchange, in accordance with its Byelaws, Rules or Regulations, shall publish a notice inviting the legitimate claimants to file claims against the defaulter member within a specified period called as the 'specified period'.
- 1.2 The specified period shall be a minimum period of 90 days.
- 1.3 Exchange shall publish the notice in all the editions of at least one English national daily with wide circulation and in at least one regional language daily with wide circulation at the place(s) where the concerned Exchange Member(s) is/are situated.
- 1.4 The notice calling for claims shall be displayed on the website of the Exchange for the entire specified period.
- 1.5 The notice shall contain the specified period, the maximum compensation limit for a single claim of an investor/client and all other relevant information.

2. ELIGIBILITY OF CLAIMS³⁹

- 2.1 The claims received against the defaulter member during the specified period shall be eligible for being considered for compensation from the IPF.
- 2.2 If any eligible claim arises within three years from the date of expiry of the specified period, such claim⁴⁰:-
 - i. shall be considered eligible for compensation from IPF in case where the defaulter member's funds are inadequate. In such cases, IPF/ Trust shall satisfy itself that such claim could not have been filed during the specified period for reasons beyond the control of the claimant.
 - ii. shall not be considered eligible for compensation from IPF/ in case where the surplus funds of the defaulter member is returned to the defaulter member. The same shall be borne by the exchanges after scrutinizing and satisfying itself that such claim could not have been filed during the specified period for reasons beyond the control of the claimant. Provided that any claim received after three years from the date of expiry of the specified period may be dealt with as a civil dispute.

3. THRESHOLD LIMIT FOR CLAIMS

- 3.1 The Exchanges are free to fix suitable compensation limits, in consultation with IPF trust. However, the amount of compensation available against a single claim of an investor

³⁸ NCDEX Circular no. NCDEX/INVESTOR SERVICES-003/2016/250 dated September 28, 2016.

³⁹ NCDEX Circular no. NCDEX/INVESTOR SERVICES-003/2016/250 dated September 28, 2016

⁴⁰ NCDEX Circular no. NCDEX/COMPLIANCE-008/2017/147 dated June 19, 2017 w.r.t. SEBI circular no. CIR/CDMRD/DEICE/CIR/P/2017/53 dated 13-June-2017.

arising out of defaulter by a member broker shall not be less than Rs 1 lakh.⁴¹

- 3.2 The exchange in consultation with IPF Trust, shall review and progressively incase the amount of compensation available against a single claim from an investor at least every three year.
- 3.3 Exchanges shall disseminate the compensation limit fixed by them and any change thereof, to the public through a Press Release and through their Website

4. DISBURSEMENT OF CLAIMS FROM IPF

- 4.1 The IPF Trust shall disburse the amount of compensation from the IPF to the investors and such compensation shall not be more than the maximum amount fixed for a single claim of an investor.⁴²
- 4.2 The compensation shall be disbursed to the investor from the IPF in case there is a shortage of defaulter broker's assets after its realization.⁴³
- 4.3 The IPF Trust shall disburse the compensation to the investors as and when claims have been crystallized against a defaulter member. The IPF Trust need not wait for realization of assets of the defaulter member for disbursement of the claims. Upon receipt of advice of the Member and Core Settlement Guarantee Fund Committee (formerly Defaulters' Committee), for payment, the IPF Trust shall take necessary steps for disbursement of amount at the earliest.

5. DETERMINATION OF LEGITIMATE CLAIMS

- 5.1 In the event of default by the member, all transactions executed on the exchange platform shall be eligible for settlement from IPF subject to the appropriate norms laid down by the defaulters' committee. The IPF of the exchange shall be utilized for the clients of SEBI registered members. However, the said amount shall not be more than the maximum limit as prescribed at all time.⁴⁴
- 5.2 In order to enhance the effectiveness of the Investor Protection Fund (IPF) and to improve the investor experience while making claims against defaulting Trading Members, a Standard Operating Procedure (SOP)⁴⁵, , inter alia, covering the brief process and timelines for obtaining information from investors, processing investor claims from IPF, review of claims and timeline for declaration of a Trading Member as a defaulter shall be followed and adhered to. The SOP details existing processes and also envisages strengthening them. It covers online/offline claim submission, expediting obtaining information from the clients by using forms, which, are pre-filled with information available with the Exchange, processing of claims, review of claims by independent auditors, etc. The SOP has been operationalized to significantly reduce the timelines for making payments to the investors in case of claims against defaulter trading members.
- 5.3 All eligible claims from investors against a defaulter Trading Member will be paid as per

⁴¹ NCDEX Circular No. NCDEX Circular no. NCDEX/COMPLIANCE-008/2017/147 dated June 19, 2017 w.r.t SEBI circular no. CIR/CDMRD/DEICE/CIR/P/2017/53 dated 13-June-2017

⁴² NCDEX Circular no. NCDEX/INVESTOR SERVICES-003/2016/250 dated September 28, 2016 w.r.t SEBI circular no. SEBI/HO/CDMRD/DEICE/CIR/P/2016/94 dated 26-Sep-2016

⁴³ NCDEX Circular no. NCDEX/COMPLIANCE-008/2017/147 dated June 19, 2017 w.r.t. SEBI circular no. CIR/CDMRD/DEICE/CIR/P/2017/53 dated 13-June-2017

⁴⁴ NCDEX Circular no. NCDEX/COMPLIANCE-008/2017/147 dated June 19, 2017 w.r.t. SEBI circular no. CIR/CDMRD/DEICE/CIR/P/2017/53 dated 13-June-2017

⁴⁵ NCDEX Circular No. NCDEX/INVESTOR SERVICES-002/2021 dated January 28, 2021

the norms for evaluating investor claims from IPF⁴⁶, subject to a maximum compensation limit per investor, which is currently Rs.5 lakhs. The maximum amount of compensation limit per investor against defaulter member is made available on Exchange website at the following link:<https://ncdex.com/grievances>

- 5.4 Once a member has been declared defaulter, the claim (s) shall be placed before the Member Core Settlement Guarantee Fund Committee (MCSGFC, the erstwhile Defaulters' Committee) for sanction and ratification. MCSGFC's advice w.r.t. legitimate claims shall be sent to the IPF Trust for disbursement of the amount immediately. In case the claim amount is more than the coverage limit under IPF or the amount sanctioned and ratified by the MCSGFC is less than the claim amount then the investor will be at liberty to prefer for arbitration outside the Exchange mechanism / any other legal forum outside the Exchange mechanism for claim of the balance amount.⁴⁷
- 5.5 Exchange has also uploaded the Frequently Asked Questions (FAQ) on processing of investors claims against Defaulter members on its website. The link for the same is <https://ncdex.com/investor-services/defaulter-member>

6. INTERIM RELIEF:-

- 6.1 In case, the GRP order is in favour of client and the Member opts for arbitration against the GRP order and the claim value admissible to the investor/ client is not more than Rs. 20 lakhs (Rs. Twenty lakhs)⁴⁸, then monetary relief shall be provided to the investor/ client by the Exchange in the manner as stated below or as may be stipulated by SEBI from time to time⁴⁹:
- i. In case the GRP order 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 investor/ client from the Investor Protection Fund (IPF) of the Exchange.
 - ii. In case the arbitration award is in favour of the investor/ client and where the amount of arbitration award is not more than Rs. 20 lakhs and the Member opts for appellate arbitration or filing petition in the court of competent jurisdiction to set aside such arbitral award or application under section 33 of the Arbitration and Conciliation Act, 1996 within 7 days from the date of receipt of the award then, a positive difference of 50% of the amount mentioned in the arbitration award or Rs. 3.00 lakhs (Rs. Three Lakhs), whichever is less, and the amount already released to the client at clause (i) above, shall be released to the client from IPF of the Exchange.
 - iii. In case the appellate arbitration award is in favour of the investor/ client and the Member opts for filing petition in the court of competent jurisdiction to set aside such appellate arbitral award under section 34 of the Arbitration and Conciliation Act, 1996 then a positive difference of 75% of the amount determined in the appellate arbitration award or Rs. 5 lakhs (Rs. Five lakhs), whichever is less, and the amount already released to the investor/client at clause (i) and (ii) above, shall be released to the client from IPF of the Exchange.

⁴⁶ NCDEX Circular No. NCDEX/INVESTOR SERVICES-002/2021 dated January 28, 2021

⁴⁷ NCDEX Circular No. NCDEX/INVESTOR SERVICES-004/2021 dated 26-Oct-2021 w.r.t. SEBI Circular No. SEBI/HO/CDMRD/DoC/P/CIR/2021/651 dated 22-Oct-2021

The release of amounts from the IPF to the investor/client as provided above shall be subject to furnishing of undertaking/ indemnity by him to return the amounts so released, in case the proceedings are decided against him and subject to such other procedure as may be specified by the Exchange from time to time. In order to discourage delayed filing by members, the additional fees payable by members who file their claim beyond the prescribed time-lines shall be non-refundable⁵⁰ even if the arbitration award goes in favor of the member.

7. INVESTOR SERVICE FUND

- 7.1 The ISC shall conduct various investor education and investor awareness programs through seminars, lectures, workshops, publications (print and electronic media), training programs etc. enhance literacy and promoting participation in the commodity derivatives market.
- 7.2 The exchange shall be permitted to utilize the corpus of ISF for conducting various investor education and awareness programs, capacity building programs and maintenance of all price ticker boards installed by the respective exchanges, cost of training of arbitrators etc. In addition to above, the corpus may be utilized in other manner as prescribed/permitted by SEBI in the interest of investors from time to time.

References:-

NCDEX Circular No. NCDEX/LEGAL-003/2016/063 dated 31-Mar-2016
NCDEX Circular No. NCDEX/INVESTOR SERVICES-002/2016/166 dated 19-July-2016
NCDEX Circular No. NCDEX/INVESTOR SERVICES-003/2016/250 dated 28-Sept-2016
NCDEX Circular No. NCDEX/INVESTOR SERVICES-004/2016/265 dated 3-Oct-2016
NCDEX Circular No. NCDEX/INVESTOR SERVICES-001/2017/173 dated 13-July-2017
NCDEX Circular No. NCDEX/INVESTOR SERVICES-001/2018/065 dated 15-Mar-2018
NCDEX Circular No. NCDEX/IPF-001/2018/064 dated 15-Mar-2018
NCDEX Circular No. NCDEX/INVESTOR SERVICES-002/2018/092 dated 06-Apr-2018
NCDEX Circular No. NCDEX/INVESTOR SERVICES-003/2018/212 dated 30-Aug-2018
NCDEX Circular No. NCDEX/INVESTOR SERVICES-001/2019 dated 08-July-2019
NCDEX Circular No. NCDEX/INVESTOR SERVICES-001/2020 dated 10-Nov-2020
NCDEX Circular No. NCDEX/INVESTOR SERVICES-001/2021 dated 01-Jan-2021
NCDEX Circular No. NCDEX/INVESTOR SERVICES-002/2021 dated 28-Jan-2021
NCDEX Circular No. NCDEX/INVESTOR SERVICES-004/2021 dated 26-Oct-2021
NCDEX Circular No. NCDEX/INVESTOR SERVICES-003/2021 dated 26-Oct-2021
NCDEX Circular No. NCDEX/INVESTOR SERVICES-005/2021 dated 06-Dec-2021
NCDEX Circular No. NCDEX/INVESTOR SERVICES-006/2021 dated 16-Dec-2021
NCDEX Circular No. NCDEX/INVESTOR SERVICES-001/2022 dated 06-June-2022
NCDEX Circular No. NCDEX/INVESTOR SERVICES-004/2022 dated 11-July-2022
NCDEX Circular No. NCDEX/INVESTOR SERVICES-005/2022 dated 10-Nov-2022
NCDEX Circular No. NCDEX/INVESTOR SERVICES-006/2022 dated 07-Dec-2022
NCDEX Circular No. NCDEX/INVESTOR SERVICES-001/2023 dated 12-Jan-2023
NCDEX Circular No. NCDEX/INVESTOR SERVICES-002/2023 dated 31-Mar-2023
NCDEX Circular No. NCDEX/INVESTOR SERVICES-003/2023 dated 18-Apr-2023