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PART – B : ARBITRATION

{ARBITRATION PROCEDURE}[1]

1. REFERENCE TO THE ARBITRATION

1.1 The Exchange shall be entitled to facilitate arbitration for such disputes between the parties as mentioned in the provision of Bye-laws, including the arbitration reference filed by the Member against the order of the Grievance Redressal Committee (GRC), by adopting such procedures as prescribed in the Bye-laws, Business Rules or Circulars issued by 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 compliant to arbitration mechanism provided by the Exchange before resorting to other remedies available under any other law}[2]. {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.}[3]

1.1 (A) {A complainant/member, who is not satisfied with the recommendation of the GRC, shall avail the arbitration mechanism of the Exchange for settlement of complaints within Three (3) months from the date of GRC recommendation.}[4]

1.1 (B) {The time period of three months mentioned in the previous sub-clause for filing arbitration shall be applicable only for the cases where the GRC recommendation is being challenged. For any arbitration application received without going through GRC 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.}[5]

1.1 (C) {The Exchange has launched an integrated online web portal for Clients and Members to file Arbitrations and Appellate arbitrations application using this online web portal.

The Salient features of the web portal are as follows:

i. Registration of clients on the portal for lodging of arbitration complaints
ii. Checking the status of complaints
iii. Providing response and documents through the software
iv. Faster communication

The Clients and Members can register their Arbitration and Appellate Arbitration applications using the link https://igrs.mcxindia.com.}[6]

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[1] MCX Circular No. MCX/IG&ARB/101/2016 dated 31/03/2016 r/w SEBI Circular No. CIR/CDMRD/DIECE/02/2015 dated 16/11/2015.

[2] MCX Circular no. MCX/IG&ARB/831/2020 dated November 10, 2020 & MCX/IG&ARB/03/2021 dated January 01, 2021 r/w SEBI Circular no. SEBI/HO/MIRSD/DOC/CIR/P/2020/226 dated November 06, 2020

[3] Inserted by MCX Circular no. MCX/ISD/331/2022 dated June 06, 2022 r/w SEBI circular no. SEBI/HO/MIRSD/DOS3/P/CIR/2022/78 dated June 03, 2022

[4] Refer footnote 3

[5] Refer footnote 3

[6] Inserted by MCX Circular No. MCX/ISD/020/2023 dated January 09, 2023

1.2 Save as otherwise specified by the Relevant Authority, if the value of the claim, difference or dispute is more than Rs. 25.00 lakhs on the date of application, then such claim, difference or dispute shall be referred to a panel of three arbitrators and if the value of the claim, difference or dispute is upto Rupees Twenty Five lakhs, then the same shall be referred to a sole arbitrator.

Provided, however, that the Relevant Authority may from time to time, increase or decrease the value of claim upto which the dispute shall be referred to a sole arbitrator or a panel of arbitrators as the case may be.

1.3 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.

1.4 In case a Warehouse refuses or fails to transfer commodities to the constituent, the date of dispute shall be deemed to have arisen on :

i. the date of receipt of communication of warehouse refusing to transfer the commodities in favor of the Constituent; or

ii. the date of expiry of 5 days from the date of lodgment of dematerialized request/or any other form by the Constituent for transfer with the seller; whichever is later;

2. CRITERIA FOR SELECTION OF PANEL OF ARBITRATORS BY THE EXCHANGE

2.1 The Exchange shall maintain 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.

2.2 The Exchange shall have a set of fair and transparent criteria for inclusion of names in the panel of arbitrators.

2.3 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.

2.4 The name of arbitrator(s) shall be included in the panel after obtaining:

i. a declaration that he/she has not been involved in any act of fraud, dishonesty or moral turpitude, or found guilty of any economic offence,
ii. disclosure of the nature of his association with securities/commodity market,
iii. disclosure of the names of his dependents associated with the securities/commodity market as member, sub-broker or authorized person, and
iv. an undertaking that he shall abide by the code of conduct.

2.5 The Arbitrators appointed by the Relevant Authority 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.

The selection of Arbitrators by the Exchange shall be done by the 'Automatic Process'. The 'Automatic Process' will entail a randomized, computer generated selection of Arbitrator, from the list of Arbitrators in the 'Common Pool'

2.6 **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.}[7]

2.7 **Review and Training of Arbitrators:**

{Regulatory Oversight Committee of MCX shall review the performance of the arbitrators annually and submit the review report to the Board of MCX. Training need of the Arbitrators will be catered by National Institute of Securities Markets (NISM). Cost of training of Arbitrators shall be incurred from ISF of the Exchange.}[8] {The Exchange shall provide training of at least one day to every arbitrator each year.} [9]

2.8 **Empanelment of arbitrators and segregation of arbitration and appellate arbitration panel:**

{There shall be no separate panels for arbitration and appellate arbitration. If the matter goes to appeal, the members who have served on the arbitration panel will not be considered for serving on the appellate arbitration panel.}[10] {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.}[11]

3. CODE OF CONDUCT FOR ARBITRATORS

Persons appointed as arbitrators 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/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;

[7] MCX Circular No. MCX/IG&ARB/228/2017 dated July 12, 2017

[8] Refer footnote 7

[9] MCX Circular No. MCX/ISD/084/2018 dated March 14, 2018

[10] MCX Circular No. MCX/ISD/677/2021 dated October 25, 2021 r/w SEBI Circular No. SEBI/HO/CDMRD/DoC/P/CIR/2021/649 dated October 22, 2021

[11] Refer footnote 7

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.

4. PROCEDURE FOR APPOINTMENT OF ARBITRATOR BY PARTIES

4.1

a) The Exchange has uploaded on its website, the details of common pool of arbitrators for each Regional Arbitration Centres (RACs) consisting of the Arbitrators appointed by the Exchange and other National Commodity Derivatives Exchanges.

b) The Applicant and the Respondent shall 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.

c) {In case of Claim upto Rs.25 Lakhs, the number of persons to be so selected by the Applicant and the Respondent shall be three (3).}[12]

{In case of Claim above Rs.25 Lakhs, the number of persons to be so selected by the Applicant and the Respondent shall be minimum three (3) and maximum five (5).} [13]

d) Such names shall be submitted in Form No. II by the Applicant along with Form No. I.

e) The Respondent shall submit the names in Form No. II within fifteen (15) days of the receipt of Form No. I from the Exchange.

f) Upon receiving the Form No. II from both the Applicant as well as the Respondent, the Exchange shall, as provided herein, identify the person/s who shall act as the arbitrator/s.

4.2 The Exchange shall identify the sole arbitrator to whom the arbitration application will be referred in the following manner:

a) The Exchange shall identify the most common arbitrator to whom the highest preference has been given by both the Applicant and the Respondent.

[12] Exchange Circular No. MCX/ISD/158/2022 March 15, 2022

[13] Refer footnote 12

b) If no common arbitrator is identifiable, the Relevant Authority shall select an arbitrator from the lists of persons eligible to act as arbitrators excluding the persons selected by the Applicant and the Respondent.

c) If after excluding the persons selected by the Applicant and the Respondent, no eligible person is available to act as arbitrator or if the available person refuses or fails to act as arbitrator, then the Relevant Authority may select an arbitrator from the list submitted by either the Applicant or Respondent.

d) In the event of the failure of Applicant and the Respondent to submit any names of eligible persons to act as arbitrators, the Relevant Authority shall select the sole arbitrator from the panel of arbitrators.

4.3 In case claim exceeds Rs.25.00 lakhs the relevant authority shall identify Arbitration Tribunal to whom the arbitration application will be referred, in the following manner:

a) The Exchange shall identify three most common arbitrators in the order of preference given by both the Applicant and the Respondent.

b) If no common arbitrator is identifiable or only one or two common arbitrators are identifiable, the first, the second and/or the third arbitrator as the case may be shall be selected by the Relevant Authority from the list of eligible persons excluding the persons selected by the Applicant and the Respondent.

c) If after excluding the persons selected by the Applicant and the Respondent no eligible person is available to act as arbitrator or if the available person refuses or fails to act as arbitrator, then the Relevant Authority may select an arbitrator from the list submitted by either the Applicant or Respondent.

d) In the event of the failure of Applicant and the Respondent to submit any names of eligible persons to act as arbitrators, the Relevant Authority shall select the panel of arbitrators from the lists of persons eligible to act as arbitrators.

e) The panel of arbitrators so appointed shall select one among themselves to act as a presiding arbitrator within 15 days of receipt of intimation from the Exchange appointing them to act as an arbitrator. In case of failure or lack of consensus among the panel to select a presiding arbitrator, the Relevant Authority shall select the presiding arbitrator.

4.4

a) If the Applicant refuses to choose the persons eligible to act as arbitrators or fails to submit Form II and the Respondent submits Form II then the Relevant Authority shall select an arbitrator from the balance list of eligible persons excluding the persons selected by the Respondent.

b) If after excluding the persons selected by the Respondent, no eligible person is available to act as arbitrator or if the available person refuses or fails to act as arbitrator, then the Relevant Authority may select an arbitrator from the list submitted by the Respondent.

c) If the Applicant submits Form II and the Respondent fails to submit the same, then Relevant Authority shall select an arbitrator from the balance lists of eligible persons excluding the persons selected by the Applicant.

4.5

a) If the arbitrator chosen as per the above procedure is not able to take up the matter for whatsoever reasons, then the Relevant Authority shall select an arbitrator from the remaining names on the list of eligible persons excluding the persons selected by the Applicant and/or the Respondent.

b) If after excluding the persons selected by the Applicant and the Respondent no eligible person is available to act as arbitrator or if the available person refuses or fails to act as arbitrator, then the Relevant Authority may select an arbitrator from the list submitted by either the Applicant or Respondent.

4.6 The arbitrator(s) shall be appointment within 30 days from the date of receipt of complete application from the Applicant.

5. VACANCY IN THE OFFICE OF THE ARBITRATOR

5.1 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 Relevant Authority.

5.2 For the purpose of para 4.1, the list of names of eligible persons in Form No II already submitted by the Applicant and by the Respondent shall be considered.

5.3 If no such eligible persons are available, the applicant and respondent shall submit Form No. II again with fresh names.

6. FEES AND CHARGES

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

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

The arbitrator fee is upwardly revised to Rs.18,000/- (Rupees Eighteen Thousand) per arbitrator. Consequent to this upward revision, the additional expenses attributable to a client over and above the fee structure as specified above, 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.

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 respective Stock Exchange.} [14]

6.2 {A client, who has a claim / counter claim upto {Rs. 20 lakh}[15] and files arbitration reference, will be exempted from filing the deposit.}[16]

6.3

a) {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.

b) 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.}[17]

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:

6.4 The time taken by the GRC from the date of receipt of dispute till the decision by the Committee to resolve the dispute under the Rules, Bye-laws & Business Rules, and

6.5 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.

6.6 {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.

The Arbitrator fees is upwardly revised to Rs.18,000/- (Eighteen thousand) per case. Consequent to this upward revision, the additional expenses attributable to a client over and above the fee structure as specified above, 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}[18].

[14] Refer footnote 7 and 9

[15] Exchange Circular No. MCX/ISD/405/2022 dated July 06, 2022

[16] Refer footnote 7

[17] Refer footnote 7

[18] Refer footnote 7

6.7 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.

6.8 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.

6.9 In any claim, difference or dispute to which an agent 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.

6.10 The amount of deposit, which has to be deposited by the parties to the dispute shall be as determined by the Relevant Authority from time to time keeping in view the amount of claim and the cost of arbitration and such amount shall be deposited by the parties towards the cost of arbitration. 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.

6.11 Notwithstanding what is mentioned above, the Exchange may call for such additional deposits as it may deem fit if in its opinion the deposits already made will be insufficient to defray the expenses of arbitration.

7. PLACE OF ARBITRATION

The arbitration and appellate arbitration shall be conducted at the Regional Arbitration Centre (RAC) 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 such regional centre.

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.}[19]

[19] Refer footnote 10

8. PROCEDURE FOR ARBITRATION

8.1

a) The Applicant shall submit to the Exchange the application for arbitration in Form No. I, along with the following enclosures:

   i. The Statement of Case (containing all the relevant facts about the dispute and relief sought)
   ii. The Statement of Accounts in proof of claim.
   iii. Copies of Member - Constituent Agreement
   iv. Copies of the relevant Contract Notes, Invoice and Delivery Challan.

b) The Applicant shall submit three sets of applications in case of a sole arbitrator and five sets in case of arbitral tribunal.

c) The Applicant shall also submit to the Exchange the following along with Form No. I.

   i. A cheque/ /pay order/demand draft for the deposit payable at the seat of arbitration in favor of Multi Commodity Exchange of India Limited.

   ii. Form No. II containing list of names of the persons eligible to act as arbitrators.

8.2

a) 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.

b) If the Applicant fails to rectify the deficiency/defect within the prescribed period, the Exchange shall return the deficient/defective application to the Applicant.

c) 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.

8.3

a) 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.

b) 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.

c) Upon receiving Form No II from the Respondent, the arbitrator shall be appointed by the Relevant Authority as per the procedure.

8.4

a) 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:
   - The Statement of Reply (containing all available defenses to the claim).
   - The Statement of Accounts.
   - Copies of the Member Constituent Agreement.
   - Copies of the relevant Contract Notes, Invoice and Delivery Challan etc.
   - Statement of the set-off or counter claim along with statements of accounts and copies of relevant contract notes and bills etc.

b) The Respondent shall submit three sets of Applications in case of Sole arbitrator and 5 sets in case of Arbitral tribunal.

c) The Respondent shall also submit to the Exchange a cheque /pay order/ demand draft for the fee / charges payable at the seat of arbitration in favor of Multi Commodity Exchange of India Limited along with Form No. III

8.5 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.

8.6

a) Upon receiving Form No. III from the Respondent the Exchange shall forward one copy to the Applicant.

b) 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.

c) The Exchange shall forward the reply to the Respondent.

d) The time period for filing any pleading referred to herein may be extended for such further periods as may be decided by the Relevant Authority in consultation with the arbitrator depending on the circumstances of the matter.

9. REQUIREMENT FOR HEARINGS

9.1 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. One lakh 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.

9.2 If the value of claim, difference or dispute is more than Rs. One lakh, the arbitrators shall offer to hear the parties to the dispute unless both parties waive their right for such hearing in writing.

9.3 {Exchanges shall continue with the hybrid mode (i.e., online and offline) of conducting arbitration / appellate arbitration process.}[20]

[20] Refer footnote 15

10. NOTICE OF HEARING

10.1 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 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.

10.2 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, inspite of due notice.

10.3 {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.}[21]

11. ARBITRAL AWARD

11.1 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).

11.2 The arbitral award shall be in writing and made in three originals duly dated and signed and dated.

11.3 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.

11.4 {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.}[22]

11.5 {The Managing Director or Executive Director or any officer (s) authorized by the Board may for sufficient cause extend the time for issue of arbitral award by not more than two months on a case to case basis after recording the reasons for the same.} [23]

[21] Refer footnote 7

[22] Refer footnote 7

[23] Refer footnote 1

12. APPELATE ARBITRATION

12.1 A party aggrieved by an arbitral award may appeal to the appellate panel of arbitrators of the Exchange against such award.

12.2 An appeal before the appellate panel of arbitrators may be filed within one month from the date of receipt of arbitral award.

12.3 The appellate panel shall consist of three arbitrators who shall be different from the ones who passed the arbitral award appealed against.

12.4 The appellate Arbitrators shall be appointed within 30 days from the date of receipt of application for appellate arbitration.

12.5 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.

12.6 The Managing Director or Executive Director or any officer (s) authorized by the Board may for sufficient cause extend the time for issue of appellate arbitral award by not more than two months on a case to case basis after recording the reasons for the same.

12.7 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.

13 IMPLEMENTATION OF ARBITRAL AWARD IN FAVOUR OF CLIENTS

13.1 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.

13.2 The Exchange shall implement the arbitral award, by making payment to the client, along with interest earned on the amount that has been set aside, as soon as the time for preferring an appeal before the appellate panel of arbitrators has expired and no appeal has been preferred.

13.3 The Exchange shall implement the appellate arbitral award, by making payment to the client, along with interest earned on the amount that has been set aside, as soon as

a) 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
b) 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

c) 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 that application had received the appellate arbitral award.

13.4 **Mechanism for implementation of Award**

{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).}[24]

14. COUNTER-CLAIM AND REPLY TO COUNTER-CLAIM

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.

15. ARBITRATION FEES AND CHARGES, COSTS, ETC.

15.1 The fees and expenses payable to arbitrator shall be as determined by the Relevant Authority from time to time.

15.2 All fees and charges relating to the appointment of the arbitrator and conduct of arbitration proceedings shall be borne by the parties in such proportions as may be decided by the Relevant Authority / Arbitrator.

15.3 The costs, if any, to be awarded to either of the party in addition to the fees and charges that have to be borne by the parties for conducting the arbitration shall be decided by the arbitrator.

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

15.5 Other fees and expenses incurred: The parties to the arbitration are liable to pay costs for and expenses of witnesses, expenses connected with the selection and carriage of sample and examination of goods, Licensed Measure's Department or Assayers'/quality certifying agencies' charges, conveyance, hire, cost of legal or technical advice or proceedings in respect of any matter arising out of the arbitration and any other incidental expenses and charges in connection with or arising out of the reference or award as the arbitral tribunal may, in its absolute discretion, think fit.

[24] Refer footnote 7

16 COMBINING OF CLAIMS

16.1 Where there are two or more applications for arbitration and the issue involved in the dispute arises out of similar transactions, the Relevant Authority may, if in his 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.

16.2 Where the applications are heard jointly, the awards, however, shall be given separately for each reference.

17 DUTY OF THE PARTIES TO THE DISPUTE

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.

18 LANGUAGE

The language of the arbitration proceedings and the award shall be English. If any documents filed by the parties are in a language other than English, the party filling such documents shall simultaneously furnish an English translation of the documents.

19 INTERPRETATION

For the purpose of this clause,

19.1 Relevant Authority means Managing Director or Executive Director or any Officer (s) authorized by the Board may for sufficient cause extend the time for issue of arbitral award by not more than two months on a case basis after recording the reason for the same.

19.2 Applicant is the person who filed the claim for arbitration.

19.3 Respondent is the person against whom the claim has been made by the Applicant including any person made a party by virtue of this Business Rule.

20 ANNEXURES

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://www.mcxindia.com/Investor-Services/arbitration/arbitration-forms.