

INTRODUCTION

A robust and effective capital market is an essential component of a country's financial structure. With the increase in competition and complexity in the capital market, the need to focus on customer disputes and resolve such securities market issues in an efficient manner has become indispensable for the successful operation of capital markets.

Investors, whose funds have been harmed by market participants' errors or misconduct, expect a system of complaint management and dispute resolution mechanism that is approachable, swift, and fair. This is critical in not just lowering the cost of capital in India, but also for increasing retail investor engagement and ensuring efficient capital market operations.

Speedy resolution of securities market disputes is important for reducing the country's equity or capital costs. Investors and distributors of securities throughout the world are often referred to a third-party, i.e., either a self-regulatory organization or any other regulatory body, for resolution of their disputes. The Blog shall examine the various facets of dispute resolution by the Securities and Exchange Board of India ("SEBI").

SEBI AND ITS DISPUTE RESOLUTION MECHANISM

SEBI is responsible for regulating all participants in the Indian capital market. It governs and monitors the Indian capital and securities market, ensuring that interests of investors are protected by framing guidelines and regulations.

SEBI, in order to provide an efficacious mechanism for resolution of disputes between investors and regulated entities, has devised an alternate dispute resolution ("ADR") mechanism for securities markets in order to protect the interests of investors, build confidence, awareness, trust and transparency in markets.

SEBI'S COMPLAINT MANAGEMENT SYSTEM

The complaint management system of SEBI comprises of an online platform known as the 'SEBI Complaint Redress System' ("SCORES"), which is designed for investors to lodge their complaints regarding securities market. SCORES handles all complaints received by SEBI against SEBI authorised intermediaries and listed firms. The complaints under the purview of SCORES includes all complaints that arise out of issues covered under the Securities and Exchange Board of India Act, 1992 ("SEBI Act"), the Depositories Act, 1996, the Securities Contract Regulation Act, 1956, the Companies Act, 2013 and rules and regulations made under the aforesaid acts.

The SCORE system lays emphasis on investor advocacy as investors can approach SEBI directly before exhausting other redressal channels. The lodging of complaints on SCORES are subject to a limitation period of three years from the causal date of complaint.

ARBITRATION MECHANISM UNDER SEBI'S COMPLAINT MANAGEMENT SYSTEM

Resolution of disputes through Arbitration is a cost-effective mode of ADR, as compared to the traditional filing of cases in courts. Under the mechanism of SCORES, an investor has the option of resolving disputes through Arbitration if he or she has an account with a Depository participant or a broker.

In situations where an investor's grievance is not remedied by any Stock Exchange or depository owing to disputes, the investor can file for Arbitration under the rules and regulations of that Stock Exchange or Depository. The Arbitration mechanism can be used to resolve all disputes, claims or disagreements between the investors and stock brokers or Depository participants.

The steps for Arbitration at Stock Exchanges are as mentioned in brief below:

- Firstly, the Applicant submits an Arbitration application to a Stock Exchange;
- The said application is then sent to Respondent after verification;
- Thereafter, an Arbitrator is appointed and all documents are sent to the Arbitrator;
- The Arbitrator then hears the contentions of both the parties and passes the award;
- Any party if aggrieved can then file an appeal;
- Thereafter, the appeal hearing is conducted and the final award is passed.

Additionally, if any party to Arbitration is dissatisfied with the award, the party can file an appeal against the decision through the Appellate mechanism of the Stock Exchange. However, if such a dispute is time barred by the limitation period, the investor cannot seek to resolve it through Arbitration.

It is pertinent to note that even if the Arbitrator or the Court rules in the investor's favour, the investor may not be able to recover his or her money if the depository participant or the broker collapses or declares bankruptcy. However, depending on the facts of the situation and subject to certain restrictions, the stock exchanges may compensate an investor up to the limit set forth in the individual stock exchange's 'Investor Protection Fund' guidelines.

ARBITRATION, DISPUTE RESOLUTION AND CONCILIATION UNDER CHAPTER 15 OF MODEL BYE LAWS OF STOCK EXCHANGES

Chapter 15 of the Model Bye Laws of Stock Exchange ("Bye Laws") provides for the provisions regarding settling of securities disputes through the process of Arbitration and Conciliation. The provisions of the Arbitration and Conciliation Act, 1996 ("A&C Act") are applicable as part of the Bye Laws. Some of the important provisions of the Bye Laws are as follows:

- The Bye Laws are applicable to all disputes between a company and an investor or an affected person and between the clearing members and trading members and non-trading members. Such disputes or claims must be referred to Arbitration after they have entered into an Arbitration agreement in writing.
- In all claims or disputes, wherever the A&C Act leaves the parties free to determine a certain issue, the Managing Director or Relevant Authority may be deemed to have been authorized by the parties to determine that issue.
- In all claims or disputes, the parties shall be deemed to have agreed for administrative assistance of the Relevant Authority in order to facilitate the conduct of the arbitral proceedings.
- If the value of the claim or dispute is more than the value specified in the relevant regulations on the date of application, then such claim or dispute will be referred to an Arbitral Tribunal comprising of odd number of Arbitrators which is more than one. On the other hand, if the value of claims or dispute is up to the value specified in the relevant regulations on the date of application, then the same shall be referred to an Arbitral Tribunal comprising a Sole Arbitrator. However, a claim or dispute which is less than the value specified in relevant regulations on the date of application cannot be submitted to Arbitration by the Exchange and it might be decided administratively by the Managing Director or Relevant Authority.
- All claims or disputes must be submitted to Arbitration within six months from the date of the transaction or from the date on which the client claims to have given instruction or order to buy or sell a security or from the date on which the client claims to have paid money or given a security, whichever is earlier. The said six months period shall be calculated excluding the time taken to resolve a dispute under the A&C Act or by Managing Director or the investors' grievance cell.
- On failure or refusal by the company to abide by an Arbitration Award, it will be liable for suspension of trading in its security. While, on failure or refusal by a trading member or clearing member to abide by an Arbitration Award, it will be declared a defaulter or expelled by the Relevant Authority.

- Further, the Arbitration can be conducted at any office of the Exchange.
- If both parties in the Arbitral proceedings are clearing members or trading members, the parties then would not be allowed to appear by advocate. However, in case where one of the parties is a sub-broker or a client and it chooses to appear by advocate, then trading or clearing member may also be allowed to appear through advocate after getting approval from Arbitral Tribunal. Also, in Arbitral proceeding between a company and any other party, the company may be allowed to appear through its advocate only after the other party has chosen to appear by advocate.
- Further, if any claim or dispute arises between the clearing members or trading members on certain matters as specified in Bye Laws, such matters will be referred to the Arbitration of a Dispute Resolution Committee or Officer or Conciliation for decision.
- The conciliation proceedings for the settlement of any dispute shall be completed within a period of thirty calendar days from the date of commencement of such proceedings.
- All matters pertaining to the conciliation proceedings are to be kept confidential by the conciliator and the parties. An exception to this is the necessity of their disclosure for the purpose of implementation of the settlement agreement.

SEBI'S STANDARD OPERATING PROCEDURE FOR DISPUTE RESOLUTION

On 08.04.2022, the SEBI pursuant to the powers conferred to it by Section 11(1) of the SEBI Act issued a circular advising the stock exchanges *"to put in place by June 01, 2022, Standard Operating Procedures (SOP) for operationalizing the resolution of all disputes pertaining to or emanating from investor services such as transfer/transmission of shares, demat/remat, issue of duplicate shares, transposition of holders, etc. and investor entitlements like corporate benefits, dividend, bonus shares, rights entitlements, credit of securities in public issue, interest /coupon payments on securities, etc."*

The said Circular further mentions that the Registrar and Share Transfer Agents (RTAs) concerned with the aforesaid disputes will remain subjected to the stock exchange Arbitration mechanism, if they provide services on behalf of listed companies.

MEHTA'S REMARKS

It is an undeniable fact that protecting the interests of investors is a significant concern of the securities marketplace regulator, i.e., SEBI, as they play a major role in the growth of the country's economy through capital markets. Therefore, it is vital to inculcate an efficacious and speedy dispute resolution mechanism for the same.

The SEBI, tasked with the functioning and regulation of the securities market in India, is entrusted with the essential function of resolving securities-related disputes and upholding the rights of investors.

SEBI's ADR mechanism provided through the SCORES platform, and the Model Bye Laws for Stock Exchange stipulate the procedure for Arbitration of investor disputes associated with the securities marketplace. The aforementioned mechanisms have built confidence and trustworthiness in the minds of investors for the effective resolution of securities disputes through Arbitration.