

## **Arbitration Mechanism**

With a view to ensuring speedy and effective resolution of claims, differences and disputes between investor and RIA, BASL has laid down an Arbitration Mechanism. This mechanism is duly embodied in the Rules, Bye-laws and Regulations of BASL and duly approved by the Government of India/SEBI, under the Securities Contracts (Regulation) Act, 1956.

### **Jurisdiction of courts**

The Courts in Mumbai shall have exclusive jurisdiction in respect of all proceedings to which the BASL is a party, and in respect of all other proceedings, the Courts having jurisdiction over the area in which the respective regional Investor Service Centre is situated, shall have jurisdiction.

The disputing parties, namely the RIA and Investor are expected to send duly filled and signed prescribed Arbitration Form along with relevant supporting documents to the respective Regional Arbitration Centre.

### **Arbitration between RIA and investor:**

Bye-laws under Chapter ..... of the Rules, Bye-laws and Regulations of BASL deal with the procedure regarding arbitration between RIA registered with BASL and investor.

**Period for filing Arbitration:** The period for filing the claim in Arbitration is governed by the Law of Limitation Act, 1963.

An Arbitral Tribunal of one arbitrator is appointed, in case the value of the disputed claim is upto Rs. 25 lakhs, If the value of claim is greater than Rs. 25 lakhs, an Arbitral Tribunal of three arbitrators is appointed.

Arbitral Tribunals constituted, comprise of only non-trading Member/s to decide such arbitration references. A party dissatisfied with the Award given by the Lower Bench can file an Appeal with the Appellate Bench within one month from the date of receipt of the arbitral award under the Rules, Bye-Laws and Regulations of BASL. In case if appeal is preferred in, the same is decided by the Appellate bench of three Arbitrators and the Award passed by the Appellate Bench is final and binding on the parties subject to challenge u/s 34 of Arbitration and Conciliation Act, 1996.

The arbitrator(s) shall conclude the arbitration reference within four months from the date of their appointment by pronouncing the award. However, on an application by either party or arbitrator(s) and for sufficient cause in recorded in writing, an extension for a maximum period of 2 months may be considered by the Exchange on case to case basis.[HD1]

### **Process of Arbitration:**

Applications may be filed by investor against RIA and vice-versa. The disputing parties are advised to refer to Bye Law under Chapter ..... of BASL, relating to 'Limitation', while filing an Arbitration application with BASL.

### **Documents to be submitted:**

Following are the documents to be submitted for filing an application for arbitration alongwith fees, as applicable:

- Statement of the case explaining brief history of the relationship of applicant with the respondent, details about the dispute and the nature of transaction/s
- Contract Notes pertaining to the transaction in dispute
- Bills issued/ received
- Copy of the Statement of Accounts
- Documents pertaining to receipt / delivery of shares
- Any other documents in support of the claim
- An accurate list of the documents produced
- PAN / GIR No. of the applicant
- Certified copy of the Balance Sheet of the applicant showing the dues
- Copy of acknowledgement of the latest Income Tax Return

The applicant will have to file the requisite form depending upon whether the claim amount is upto Rs. 25 lakhs or above.

### **Appointment of Arbitrators:**

An applicant has to provide the names of three arbitrators with preferences and the respondent will also have to provide the names of three arbitrators with preferences. The proposed names are entered in the **Centralised Arbitrator Appointment Process (CAAP)** as per SEBI circular dated March 18, 2013. In case of claims below Rs. 25 lacs, one arbitrator is appointed and in case of claims above Rs. 25 lacs, three arbitrators are appointed.

The system selects the name/s of the arbitrator/s and neither the Exchange officials nor the parties to the arbitration are directly involved in the appointment process.

Deposit of the fees for Arbitration will be exempted for applicant client in case where the claim amount is up to Rs. 10 Lakhs.

A copy of the documents filed by the applicant along with Forms 3, 4 and 5 / 3A, 4A and 5A (as applicable) are sent to the respondent advising him / her / them to submit the details of counter claim, if any, consent to the proposed arbitrator / appointment of arbitrator (as applicable), payment of arbitration fees (as applicable). Both parties are intimated by **BASL** regarding the appointment of arbitrators.

Subsequently, Notice of Hearing is sent to the parties. The hearings are then arranged as decided by the Arbitrators. Minutes of every hearing is prepared and taken on record. Advocates may appear on behalf of each party subject to permission from the Arbitral Tribunal.

As per the provisions of Bye-laws under Chapter ----- of the Rules, Bye-laws and Regulations of BASL, the Arbitral Tribunal shall make the award within four months from the date of appointment of Arbitrators or within an extended time, if approved, which shall not be more than

two months. The award has to be a speaking award. The final award is printed on stamp paper and signature(s) of Arbitrator(s) are obtained on the final award. The award is forwarded to the applicant as well as to the respondent.

Any party to the arbitration, within 15 days from the date of receipt of Award, may request the Arbitral Tribunal to correct any computational / arithmetical / clerical / typographical / any similar error in the award or to give an interpretation of a specific point or part of the Award.

#### **Appeal provision in the Bye-laws:**

**Time Limit:** Appeal against the Award of the arbitrators is to be filed within one month from the date of receipt of the award.

**Fees for Appeal:** A party appealing against an award is required to pay the necessary appeal fees as decided from time to time.

**Appeal Memo:** A party desiring to prefer an appeal against an award of the Arbitrator(s) is required to submit five sets of Memorandum of Appeal.

**Appeal Bench:** The Appeal filed by a party against a Lower Bench award will be heard and decided by an Appeal Bench of three Arbitrators as appointed through CAAP system. The Appeal Bench decides the appeal within three months from the appointment of Arbitrators. However, on an application by either party or arbitrator(s) and for sufficient cause in recorded in writing, an extension for a maximum period of 2 months may be considered by the Exchange on case to case basis [HD2][HD3]. [HD4][HD5]

Unless challenged by either of the parties, an arbitration award becomes a decree after expiry of the relevant period as applicable in law and a decree can be executed through a competent court of law.