

Chapter 5 Arbitration Rules

Table of Contents

- 5.1 Definitions and scope of these Arbitration Rules 1
- 5.2 Non-waiver of Exchange objects and purposes 2
- 5.3 Mandatory submission to arbitration 2
- 5.4 Non-mandatory submission to arbitration 2
- 5.5 Seat and language of the arbitration 2
- 5.6 Start of arbitration proceedings 2
- 5.7 Appointment of arbitrators 4
- 5.8 Arbitrator disclosure and requests for disqualification of arbitrators 5
- 5.9 Disqualification or other disability of arbitrators 5
- 5.10 Hearing Requirement: waiver of hearing 6
- 5.11 Designation of time and place of hearings 6
- 5.12 Procedure for claims of less than three thousand dollars (\$3,000) 6
- 5.13 Time limitation 6
- 5.14 Interruption of time limitation 6
- 5.15 Withdrawal of proceedings 6
- 5.16 Settlement 6
- 5.17 Legal representation 7
- 5.18 Failure to appear or to progress the arbitration 7
- 5.19 Adjournments 7
- 5.20 Disclosure of documents 8
- 5.21 Pre-hearing conference and procedural timetable 8
- 5.22 Pre-hearing evidence submission 9
- 5.23 Power to order Member appearances 9
- 5.24 Evidence 9
- 5.25 Conduct of hearings 9
- 5.26 Interpretation of these Arbitration Rules 10
- 5.27 Determination of arbitrators 10
- 5.28 Record of proceedings 10
- 5.29 Oaths of witnesses 10
- 5.30 Amendments 10
- 5.31 Closing of hearings 10
- 5.32 Reopening of hearings 11
- 5.33 Awards 11
- 5.34 Schedule of fees 12
- 5.35 Privacy and confidentiality of the proceedings 13

5.1 Definitions and scope of these Arbitration Rules

- (A) In this Chapter 5 of these Rules, the term Member shall be read to mean a Member or DEA Customer as the case may be.
- (B) These Arbitration Rules govern the resolution of all disputes, claims, grievances and controversies:
 - (1) between Members and DEA Customers;
 - (2) between a Member or DEA Customer and its employee(s); and
 - (3) between a Member or DEA Customer and its Customer,
 other than those that are subject to Chapter 7 (Disciplinary Rules).
- (C) These Arbitration Rules shall not apply to any issue for resolution falling within the provisions of Rule 10.19.

5.2 Non-waiver of Exchange objects and purposes

The submission of any matter to arbitration under these Arbitration Rules shall in no way limit or preclude any right, action or determination by the Exchange which it would otherwise be authorised to adopt, administer or enforce.

5.3 Mandatory submission to arbitration

(A) Disputes between Members

Any dispute, claim, grievance or controversy between or among Members and employees of Members (including Members or employees of Members who were Members or employees of Members at the time such dispute, claim, grievance or controversy arose) wholly or partially arising, directly or indirectly, out of, in connection with or as a result of:

- (1) any transaction executed on the Exchange (including EFRPs); or
- (2) the business of such Member on the Exchange;

shall be finally settled by arbitration under these Arbitration Rules.

(B) Disputes between Members and Customers

Any dispute, claim, grievance or controversy between a Customer and a Member or between a Customer and an employee of a Member that arises wholly or partially, directly or indirectly, out of, in connection with or as a result of any transaction under or subject to these Rules shall be finally settled by arbitration under these Arbitration Rules, as provided by an enforceable written agreement, or upon the written demand of the Customer to which demand the Member or employee of a Member, as the case may be, is required to submit under these Arbitration Rules.

5.4 Non-mandatory submission to arbitration

Any dispute, claim, grievance or controversy other than as defined in paragraphs (A) and (B) of Rule 5.3 between any of a Member, employee of a Member or Customer may be settled finally by arbitration under these Arbitration Rules as provided by an enforceable agreement to arbitrate under these Arbitration Rules or an enforceable written agreement to submit to arbitration under these Arbitration Rules, provided that the arbitrators shall have the right to decline to use these Arbitration Rules where, having due regard to the purposes of the Exchange, they are of the view that such dispute, claim, grievance or controversy is not a proper subject matter for arbitration under these Arbitration Rules.

5.5 Seat and language of the arbitration

The seat of any arbitration proceedings under these Arbitration Rules shall be London, England and such proceedings shall be subject to the Arbitration Act 1996. Hearings in such arbitration proceedings shall take place in Dubai, UAE or in such other place as all parties to the proceedings and the arbitrators may agree. The language of the proceedings shall be English.

5.6 Start of arbitration proceedings

(A) Arbitration proceedings under these Arbitration Rules shall be started as follows:

- (1) Statement of Claim
 - (a) The party or parties desiring to submit a matter to arbitration (the **Claimant**) shall file with the Compliance Department three (3) copies of a statement of

claim (**Statement of Claim**) setting out a concise description of the claim, dispute, grievance or controversy and the name and address of the Persons from whom relief is sought (the **Respondent(s)**), together with any documents and names of witnesses. The Statement of Claim shall also identify the arbitrator whom the Claimant wishes to nominate, specify the relevant facts, the remedies sought (including the method of the party's damage computation) and the basis upon which relief is sought.

(b) The Compliance Department shall promptly send the Statement of Claim to the Respondent(s).

(2) Answer and Counterclaims

(a) Each Respondent shall, within twenty (20) days from receipt of the Statement of Claim, file an answer (**Answer**) and any counterclaim (**Counterclaim**) with the Compliance Department.

(b) The Answer shall respond to each of the allegations in, and set out all available defences to, the Statement of Claim and may set out any related Counterclaim the Respondent may have against the Claimant. Each Respondent shall also attach to the Answer any relevant documents and include the names of any witnesses.

(c) The Compliance Department shall promptly send a copy of the Answer and any Counterclaim to the Claimant.

(d) Any Counterclaim of a Member Respondent against a Customer Claimant may be brought only if the Counterclaim arises out of the transaction or occurrence which is the subject of the Customer's dispute, claim, grievance or controversy and does not require for adjudication the presence of essential witnesses or third Persons whose presence at the arbitration hearing cannot be compelled by the arbitral tribunal (the **Tribunal**) or the Exchange.

(e) Other Counterclaims are permissible where the Customer agrees to the submission to arbitration after the Counterclaim has arisen and if the aggregate monetary value of the claim is capable of calculation.

(3) Reply

(a) Within ten (10) days of an Answer asserting a Counterclaim, a Claimant shall file a reply to any counterclaim (**Reply**) with the Compliance Department.

(b) The Compliance Department shall promptly send a copy of the Reply to the Respondent(s).

(4) The Compliance Department shall provide the Tribunal with a full set of the pleadings as soon as the Tribunal has been constituted.

(5) The time period to file any document may be extended for such further period as may be granted by the CCO or, once the Tribunal has been constituted, by the Tribunal upon the written request of the party seeking the extension.

(B) Attendance at hearings

The attendance or presence of any Person at hearings including witnesses shall be determined by the Tribunal. However, all parties to the arbitration and their counsel shall be entitled to attend all hearings.

- (C) Joinder and consolidation of disputes between Members
- (1) In disputes between Members, any party shall have the right to proceed in the same arbitration against any other party upon any claim directly related to such dispute.
 - (2) By virtue of these Arbitration Rules, Members are deemed to agree that:
 - (a) they may be joined as parties in existing arbitration proceedings; and
 - (b) any separate claims concerning directly related issues may be consolidated into one (1) set of arbitration proceedings under these Arbitration Rules with the Tribunal first appointed taking over as the Tribunal for the consolidated proceedings.
- (D) Service of papers
- (1) Service of all papers by either the parties or the Compliance Department, including the initial pleadings, disclosure requests and responses and any other materials relating to a claim, may be effected by fax or by use of a generally recognised overnight delivery service.
 - (2) In the case of service on a party, this will be to the party's last known address on record with the Exchange (or his agent for service of process, if any)
 - (3) All time periods set out in these Arbitration Rules within which a party must respond shall commence:
 - (a) for service by fax, on the date on which the fax is sent; or
 - (b) for service by overnight delivery service, two (2) days after the papers have been received by the overnight delivery service.

5.7 Appointment of arbitrators

- (A) Disputes between Members
- (1) In all arbitration proceedings between or among Members and/or employees of Members, the Tribunal shall consist of two (2) party-appointed arbitrators and a chairman. The party-appointed arbitrators shall be directors, officers, partners or employees of Members. The chairman shall be a lawyer of at least ten (10) years standing and shall be nominated jointly by the two party-appointed arbitrators.
 - (2) The Claimant shall identify his party-appointed arbitrator in the Statement of Claim.
 - (3) The Respondent shall notify the Claimant and the Compliance Department of the identity of his party-appointed arbitrator in writing within ten (10) days of receipt of the Statement of Claim.
 - (4) The two (2) party-appointed arbitrators shall nominate the chairman within ten (10) days thereafter.
 - (5) The Chairman of the Bar Council of England and Wales is designated as appointing authority to appoint arbitrators to the Tribunal in the event of:
 - (a) failure by a party to appoint an arbitrator, in which case the Chairman of the Bar Council of England and Wales shall, in consultation with the CCO, appoint a director, officer, partner or employee of a Member, as an arbitrator; and/or

- (b) failure by the two (2) party-appointed arbitrators to nominate a chairman, in which case the Chairman of the Bar Council of England and Wales shall appoint a chairman being a lawyer of at least 10 (ten) years standing.
 - (6) Where there are more than two (2) parties to the arbitration proceedings, the Chairman of the Bar Council of England and Wales shall appoint all three (3) arbitrators, being two (2) directors, officers, partners or employees of Members and a Chairman who is a lawyer of at least 10 (ten) years standing, within fifteen (15) days of the written request of any party.
- (B) Disputes between Members and Customers
- Except where the sum claimed is less than three thousand dollars (\$3,000), in which case Rule 5.12 shall apply, in all arbitration proceedings in which a Customer is a party, the procedure at paragraph (A) of this Rule applies, except that the party-appointed arbitrators need not be members of, or associated with a member of, any commodities exchange.

5.8 Arbitrator disclosure and requests for disqualification of arbitrators

- (A) Upon his nomination, each arbitrator shall disclose to the CCO any direct or indirect financial or personal interest in the outcome of the arbitration and any existing or past professional, family or social relationships or associations with any party, counsel, expert or any potential witness, which are likely to affect such arbitrator's impartiality or might reasonably create an appearance of partiality or bias.
- (B) The CCO shall immediately inform all parties of any such disclosures and may, at the request of a party and for good cause shown, disqualify an arbitrator. In making such a determination the CCO shall refer to and be guided by the International Bar Association's Guidelines on Conflicts of Interest in International Arbitration (the **IBA Guidelines**), as well as the Exchange's own Ethics Guidelines.
- (C) Any party may submit to the CCO, with a notice and copy to the opposing party, a request to disqualify an arbitrator. The request shall specify the facts and circumstances that the party believes are likely to affect the arbitrator's impartiality, and will be resolved as follows:
 - (1) Within five (5) days of receiving notice of the request, the non-requesting party shall respond to the request to disqualify by informing the CCO and the requesting party of its consent or opposition to the request.
 - (2) Where the non-requesting party consents to the request, the arbitrator shall be removed from the Tribunal and a substitute appointment, if any, shall be made in accordance with Rule 5.9.
 - (3) If the non-requesting party opposes the removal of the arbitrator or fails to respond, the CCO shall rule on the request in accordance with the IBA Guidelines and Conflicts provisions in the Exchange's Ethics Guidelines.

5.9 Disqualification or other disability of arbitrators

- (A) If any arbitrator, after the start of the arbitration but before an award is made, becomes disqualified, resigns, dies, refuses or is unable to perform or discharge his duties, the CCO, upon such proof as he deems satisfactory, shall make a ruling setting the grounds for the replacement of the arbitrator, which shall be promptly notified to the parties.
- (B) Thereafter the Chairman of the Bar Council of England and Wales shall, in compliance with the provisions in Rule 5.7 and in consultation with the CCO, appoint a new arbitrator within ten (10) days of the written request of any party.

5.10 Hearing Requirement: waiver of hearing

- (A) Subject to Rule 5.12 a hearing shall take place in every arbitration proceedings under these Arbitration Rules, unless all parties waive such hearing in writing and request that the matter be resolved solely upon the pleadings provided for in Rule 5.6 and any documentary evidence which any of the parties wishes the Tribunal to take into account.
- (B) Notwithstanding a written waiver of a hearing by the parties, the Tribunal may by decision of a majority of the arbitrators decide to call for and conduct a hearing.

5.11 Designation of time and place of hearings

The time and place of all hearings shall be determined by the Tribunal, taking into account the views of the parties.

5.12 Procedure for claims of less than three thousand dollars (\$3,000)

- (A) Any dispute, claim, grievance or controversy involving an amount not exceeding three thousand dollars (\$3,000) in the aggregate, exclusive of costs and interest, shall be decided by a single arbitrator on documents only, unless the arbitrator deems it necessary that a hearing should take place.
- (B) The single arbitrator shall be appointed by the Chairman of the Bar Council of England and Wales within ten (10) days of receipt of a written request by any party.
- (C) The single arbitrator shall not be a member of, or associated with a member of, any commodities exchange.
- (D) Reference in these Arbitration Rules to "the Tribunal" shall include a single arbitrator appointed under this Rule, unless the context otherwise requires.

5.13 Time limitation

No dispute, claim, grievance or controversy shall be eligible for submission to arbitration under these Arbitration Rules in any instance where two (2) years have elapsed from the occurrence or event giving rise to the dispute, claim, grievance or controversy.

5.14 Interruption of time limitation

Any limitation which would otherwise run or accrue for the institution of legal proceedings shall be interrupted upon the filing of the Statement of Claim concerning the dispute, claim, grievance or controversy submitted to arbitration.

5.15 Withdrawal of proceedings

- (A) A Statement of Claim may be withdrawn at any time prior to the filing of the Answer. Thereafter the Statement of Claim may only be withdrawn with the consent and mutual agreement of all parties submitted in writing to the Tribunal.
- (B) The Tribunal has discretion to award costs as a result of the withdrawal of the Statement of Claim.

5.16 Settlement

- (A) The Tribunal, at the request of the parties, may set out the terms of any mutually agreed settlement in an award.

- (B) A consent award shall have the same status and effect as any other award on the merits of the case.
- (C) A consent award shall also have the effect of terminating the arbitration proceedings.

5.17 Legal representation

- (A) A party is not required to have legal representation in any arbitration proceeding. However, any party has the right to be legally represented and may avail themselves of this right at any stage of the arbitration at their own expense.
- (B) Any party who wishes to be legally represented shall so notify and provide the Compliance Department with such legal representative's name and address by written notice to the Compliance Department and the other party or parties.
- (C) Upon receipt of notification that a party is to be legally represented, the Compliance Department and the other parties shall serve papers in the proceeding solely upon such party's legal representative.

5.18 Failure to appear or to progress the arbitration

- (A) If the Claimant, after due notice, fails to appear at a pre-hearing conference or at a hearing or otherwise to progress the arbitration in an expeditious manner, the Tribunal may dismiss the claim and make an award on costs.
- (B) If the Respondent, after due notice, fails to appear at a pre-hearing conference or at a hearing or otherwise to progress the arbitration in an expeditious manner, the Tribunal may, in its discretion, proceed with the arbitration proceedings.
- (C) In a case to which paragraphs (A) or (B) of this Rule apply, all decisions shall be rendered as if each party had entered an appearance at the hearing.
- (D) In a case to which paragraph (B) of this Rule applies:
 - (1) an award shall not be made in the Claimant's favour solely because of the Respondent's default, unless the Claimant has submitted such evidence and presented such arguments in support of the Statement of Claim as the arbitrators deem necessary to issue an award;
 - (2) an award rendered against the Respondent shall not become effective, and the compliance provision contained in paragraph (J) of Rule 5.33 shall not operate, until thirty (30) days from the date the award is delivered to the Respondent in accordance with paragraph (E) of Rule 5.33;
 - (3) during the thirty (30) day period following the issue of an award, the Respondent may submit to the arbitrators a written request to present evidence and arguments in opposition to the Statement of Claim. The Respondent must demonstrate good cause for post-hearing submissions by clear and convincing evidence that gross injustice and extreme hardship would result from denial of the request; and
 - (4) admittance of the Respondent's evidence and arguments, if permitted, shall be upon such terms and conditions as the Tribunal may direct.

5.19 Adjournments

- (A) The Tribunal may, in their discretion, adjourn any hearing either upon their own initiative or upon the request of any party to the arbitration.
- (B) The chairman of the Tribunal is authorised to act on the Tribunal's behalf in responding to requests for an adjournment.

- (C) When a party requests and is granted an adjournment, the chairman may assess such fees as may be reasonable after giving due consideration to the reason for the adjournment and the number of prior adjournments, if any, which have been granted to the requesting party. In no event shall the fees exceed two hundred and fifty dollars (\$250) for each adjournment.

5.20 Disclosure of documents

(A) Informal Document and Information Requests

- (1) The parties shall cooperate at all times in the voluntary exchange of documents and information concerning the issues raised in the arbitration proceedings.
- (2) Additionally, a party may request from the Compliance Department copies of non-confidential documents that are relevant to the proceeding. Such requests shall be submitted to the Compliance Department, which shall provide copies of the request, and any documents produced, to the other party.

(B) Formal Document and Information Requests

- (1) Each party may serve upon any other party a written request for relevant documents and information twenty (20) days following service of the Statement of Claim, or at the time of service of the Answer, whichever occurs earlier.
- (2) The party upon whom the request is served shall have twenty (20) days following such service to respond.
- (3) Any objections to the request must be served within ten (10) days following receipt of the request.
- (4) The requesting party may respond to any such objections within ten (10) days following service.
- (5) The parties shall provide the Tribunal with copies of all disclosure requests, objections and responses.
- (6) The Tribunal shall rule on all objections to, and resolve all disputes arising out of, requests for disclosure. The chairman of the Tribunal may grant such extensions of time to respond to disclosure requests as do not interfere with the scheduling of a hearing date.
- (7) At the election of the chairman, the Tribunal may resolve disputes concerning disclosure on the written submissions of the parties, or at a pre-hearing conference.

(C) Failure to Produce

A party who unreasonably and unjustifiably withholds or delays production of documents or information may be precluded from introducing or relying upon such documents and information at the hearing and the Tribunal shall be free to draw any adverse inferences which it considers appropriate.

5.21 Pre-hearing conference and procedural timetable

- (A) In appropriate cases, the chairman of the Tribunal may call a pre-hearing conference to resolve objections to jurisdiction or disclosure of documents, resolve scheduling matters, facilitate the preparation of a procedural timetable and address any other matter for the purpose of expediting the hearing.
- (B) The procedural timetable shall include such matters as the Tribunal and the parties require, including, where appropriate, a summary of the issues in dispute, a list of facts and documents

on which the parties agree, and a list of the witnesses and documents on which the parties intend to rely at the hearing.

- (C) If necessary, the parties shall make written submissions to the Tribunal addressing legal and factual questions relating to the dispute.
- (D) The Tribunal may, in its discretion, permit the pre-hearing conference to be conducted by telephone or by video link.

5.22 Pre-hearing evidence submission

- (A) At least five (5) days prior to the hearing date, all parties shall provide the Tribunal, the Compliance Department and all other parties with copies of the documents they intend to use at the hearing and the names of all witnesses who may testify on their behalf at the hearing.
- (B) Where the Tribunal has directed that the parties prepare a procedural timetable, the parties shall provide the Compliance Department with a copy of such timetable, at least five (5) days prior to the hearing date.
- (C) The Tribunal may preclude a party from using documents or presenting witnesses if not provided and identified in accordance with paragraph (A) of this Rule.

5.23 Power to order Member appearances

- (A) The Tribunal, at the request of any party, shall be empowered to order the appearance of any Member or any Person employed by or associated with any Member who is not a party to the arbitration or to order the production of any records in the possession or control of such Persons.
- (B) Unless the Tribunal orders otherwise, the party requesting the appearance of a Person or the production of documents under paragraph (A) of this Rule shall bear all reasonable costs of such appearance or production.
- (C) The Tribunal may also of its own initiative order the appearance of any Member or any Person employed by or associated with any Member or the production of any records in the possession or control of such Person or Member. The costs of such appearance or production shall be treated as arbitration costs for the purpose of Rule 5.33(C)(1).
- (D) By virtue of these Arbitration Rules, Members agree fully to comply with the Tribunal's orders concerning appearances and production of documents.

5.24 Evidence

- (A) The Tribunal shall in its discretion determine the materiality, weight and relevance of any evidence and shall not be bound by formal rules governing the admissibility of evidence.
- (B) The Tribunal may, for good cause shown by the requesting party, and subject to objections by any opposing party, review and consider evidence of witnesses by sworn statement. Such sworn statements shall receive only such weight as the Tribunal deems them entitled.
- (C) In its discretion, and subject to whatever conditions may be necessary and appropriate, the Tribunal may permit parties and witnesses to participate in an oral hearing by telephone or video link.

5.25 Conduct of hearings

- (A) The hearing shall formally begin by the chairman recording the place, time and date of the hearing, the presence of the Tribunal and parties and their legal representatives, if any, and by the introduction of the Statement of Claim and other pleadings, if any.

- (B) Subject to the parties' agreement as set out in the procedural timetable, the Claimant shall then present its claim and evidence and its witnesses, who shall submit to questions or other examination, including cross-examination by any other party (or its legal representatives) and the Tribunal.
- (C) The Respondent shall then present its defence and counterclaim (if any) and evidence and its witnesses, who shall also submit to questions or other examination, including cross-examination by any other party (or its legal representatives) and the Tribunal.
- (D) The Tribunal shall give the parties equal opportunity to present their case.
- (E) Exhibits, when offered by either party, may be received in evidence by the Tribunal.
- (F) The names and addresses of all witnesses and exhibits in the order received shall be made a part of the record.
- (G) *Ex parte* contacts regarding the arbitration proceeding by the parties or the parties' representatives with any member of the Tribunal are prohibited.

5.26 Interpretation of these Arbitration Rules

The Tribunal shall be empowered to interpret and determine the applicability of all provisions of these Arbitration Rules and their interpretation shall be final and binding upon the parties.

5.27 Determination of arbitrators

Except where the chairman is authorised to make a ruling or determination on behalf of the Tribunal, all orders, awards, partial or interim awards, rulings and determinations of the Tribunal shall be made by a majority of the arbitrators.

5.28 Record of proceedings

- (A) Unless requested in writing ten (10) days prior to the first hearing date by the Tribunal or a party or parties to a dispute, no record of an arbitration proceeding is required to be kept.
- (B) If a record is kept, it shall be a verbatim record.
- (C) If a party or parties to a dispute elect(s) to have the record transcribed, the cost of such transcription shall be borne by the party or parties making the election, who shall also bear the cost of a transcription of the record for the arbitrators.

5.29 Oaths of witnesses

- (A) Prior to the commencement of the first session, an oath or affirmation shall be administered to the witnesses.
- (B) All testimony shall be under oath or affirmation.

5.30 Amendments

A party wishing to amend a pleading may only do so with the consent of the Tribunal and upon such terms and conditions as it may direct.

5.31 Closing of hearings

- (A) The Tribunal shall inquire specifically of each party whether it has any further evidence to offer or witnesses to present. Upon receiving negative replies from all parties, the Tribunal shall declare the hearings to be closed.

- (B) If post-hearing briefs or other memoranda are to be filed, the hearing is to be declared closed as of the final date set by the Tribunal for receipt of such briefs or memoranda.
- (C) The time limit within which the Tribunal is required to make an award shall begin to run, unless otherwise agreed by the parties, upon such declaration of the closing of the hearing.
- (D) The conclusion of hearings, and the closing of the record, shall be subject to the provisions relating to the failure of a party to appear at a hearing contained in Rule 5.18.

5.32 Reopening of hearings

- (A) Where permitted by applicable law, the hearings may be reopened by the Tribunal of their own motion or at their discretion upon application of a party at any time before the award is issued by the Tribunal.
- (B) A party wishing to reopen a hearing shall provide the Compliance Department and the Tribunal with a written basis for such request and shall notify the Compliance Department that such party will appear at any subsequent hearing.

5.33 Awards

- (A) All awards shall:
 - (1) be in writing in English;
 - (2) state the seat and the date of the award;
 - (3) be signed by at least a majority of the arbitrators or in such manner as is required by law;
 - (4) if not signed by all of the arbitrators, state the reason for the omitted signature; and
 - (5) contain reasons, unless they are consent awards or the parties have agreed that no reasons are to be given.
- (B) Awards may be entered as a judgment in any court of competent jurisdiction.
- (C) In addition to damages and other relief, the Tribunal may:
 - (1) assess the arbitration fees, expenses and costs associated with the arbitration against the losing party; and
 - (2) assess against a party all or any portion of the reasonable legal fees incurred by any other party, provided that it may do so only upon a finding that such other party put forward a frivolous claim, defence or counterclaim, or acted in bad faith during the course of the arbitration.
- (D) All awards made pursuant to these Arbitration Rules shall be final and not subject to review or appeal, except as provided by applicable law.
- (E) The Compliance Department shall deliver a copy of the award by registered or certified mail or by overnight courier upon all parties and their legal representatives at the address of record.
- (F) Within ten (10) days of service of the award, a party may make a written request to the Tribunal to modify or correct an award if:
 - (1) there was a miscalculation of figures or mistake in the description of any Person, thing or property referred to in the award;

- (2) the Tribunal have awarded upon a matter not submitted to them and the merits of the decision upon the issues properly before the Tribunal will not be affected by correcting the award; or
- (3) the award fails to satisfy the formal requirements of paragraph (A) of this Rule.
- (G) The Compliance Department shall promptly furnish to all parties a copy of the request for modification. Any objection to a request for modification of an award must be submitted in writing to the Tribunal within five (5) days of receipt of such request.
- (H) In the event that an award is issued against a Member in the amount of five thousand dollars (\$5,000) or more, the CCO will review the award if, in his discretion, investigative review is warranted.
- (I) The award shall be issued within thirty (30) days from the date the record is closed.
- (J) A Member or employee of a Member must comply with an award or pay the full amount awarded against the Member or employee of a Member to the Exchange as escrow agent pending a good faith consideration of appeal rights within ten (10) days receipt of the award. Failure to comply with this paragraph (J) of this Rule shall be a violation of the Rules and shall be grounds for automatic suspension from all rights and privileges of Membership and/or access to the Trading Platform until the arbitration award is paid in full or is otherwise satisfied.
- (K) Subject to paragraph (L) of this Rule, any award amount held in escrow with the Exchange, plus accrued interest, shall be released to the prevailing party as soon as practicable and no later than ninety (90) days after notice of the award is issued.
- (L) If a timely application to vacate, modify or correct the award has been filed with a court of competent jurisdiction, the Exchange shall hold the amount in escrow and disburse such amount, together with accrued interest, upon the entry of, and in accordance with, a final order disposing of the application. Any party who, having paid an award amount in escrow, thereafter decides not to file an appeal, shall immediately notify the Exchange, which shall then release the amount in escrow, with accrued interest.
- (M) A party to an arbitration shall notify the Compliance Department forthwith if that party learns that judicial review of the proceedings is being sought by any party.

5.34 Schedule of fees

- (A) At the time of filing a Statement of Claim, a Claimant shall pay to the Compliance Department a fee in the amount indicated below:

Amount in Dispute (exclusive of interest and expenses)	Deposit
\$5,000 or less	3% (minimum of \$100)
Above \$5,000 but less than \$10,000	\$150 plus 2% of excess over \$5,000
\$10,000 or more but less than \$100,000	\$250 plus 1% of excess over \$10,000
\$100,000 or more	\$1,150 plus 0.5% of excess over \$100,000

- (B) If the dispute, claim, grievance or controversy does not involve a money claim or involves a claim for money but such claim is not capable of exact determination, the amount to be paid by the Claimant shall be one hundred dollars (\$100) or such other amount as the Exchange may require, but shall not exceed five hundred and fifty dollars (\$550).
- (C) At the time any claim for money is determined, the Claimant shall pay the fee provided in paragraph (A) of this Rule less the amount already deposited.
- (D) Any matter submitted and thereafter settled or withdrawn may be subject to a refund of all but twenty five dollars (\$25) of fees deposited with, and not expended by, the Compliance Department in relation to that arbitration.

5.35 Privacy and confidentiality of the proceedings

- (A) Any arbitration proceedings to which these Arbitration Rules apply, including the pleadings, documents, hearings and any correspondence or communications associated therewith, shall be treated by the parties, the arbitrators and the Exchange as private and confidential unless they are required by law to divulge information or paragraph (H) of Rule 5.33 applies.
- (B) At no time while serving on a Tribunal, or following the closing of the proceedings, shall an arbitrator publicly discuss or reveal or engage in any conversation that he knows or reasonably should know will lead to the public disclosure of any information regarding the conduct of the arbitration, the evidence and testimony submitted during the hearing or the Tribunal's deliberation, unless required to do so by law.