

**CUTS International**

**Response to SEBI Consultation Paper on Strengthening the Investor Grievance Redressal Mechanism in the Indian Securities Market by harnessing Online Dispute Resolution mechanisms**

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Category:	Public (consumer group)

S. no	Extract from the consultation paper	Issues	Proposals/ Suggestions with Rationale
1.	Para 6 at page 2, “it should be mentioned that the Indian stock market, comprising various constituents such as the stock and commodity exchanges, depositories, stock brokers, depository participants, have effectively and efficaciously dealt with investor grievances and disputes”	<p>1. The paper assumes that existing investor grievance redress and dispute resolution mechanisms are effective, without providing any data to this effect.</p> <p>2. At the BSE Limited, during the ongoing financial year, 1493 complaints were received till date (1 April 2022 – 20 January 2023) against trading members from their clients. Of these, 1135 are marked as resolved. Of such resolved complaints, 289 or 25 percent resolutions are for complaints which were also marked as not maintainable in the first place owing to incomplete information or otherwise being outside the scope of stock exchange.<sup>1</sup> One is not sure how such complaints were also marked as resolved, or whether additional information was sought from complainants.</p>	<p>1. SEBI should release data to support its claims made in the consultation paper. It would be essential for the regulator like SEBI to fact-check its claims, before initiating a consultation.</p> <p>2. Based on data which should be made available in public domain, SEBI should clearly identify the problem statement, and intended objective. It should also discuss different possible mechanisms to achieve the objectives, including costs and benefits of the such alternatives. For this, SEBI must follow the regulation making process it had promised to follow in the resolution of Financial Stability and Development Council on 24 October 2013, dated in letter and spirit.<sup>14</sup></p>
2.	Para 8 at page 2, “Such mediation/conciliation and arbitration mechanisms as administered by the exchanges (including stock and commodity exchanges) and depositories (together referred to as Market Infrastructure Institutions – MIIs) <u>have served the Indian stock market quite well.</u> ”		

<sup>1</sup> <https://www.bseindia.com/investors/invgrievstats.aspx>

<sup>14</sup> [https://dea.gov.in/sites/default/files/Handbook\\_GovEnhanc\\_fslrc\\_2.pdf](https://dea.gov.in/sites/default/files/Handbook_GovEnhanc_fslrc_2.pdf)

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		<p>3. Of the 358 unresolved complaints, 251 or 70 percent complaints were marked as not maintainable in the first place owing to incomplete information or otherwise outside the scope of stock exchange.<sup>2</sup> One is not sure if the complainants were directed to the correct platform for filing of complaints.</p> <p>4. Additional 52 complaints marked as not maintainable in the first place owing to incomplete information or otherwise outside the scope of stock exchange, are also marked as under process.<sup>3</sup> This creates ambiguity and lack of clarity.</p> <p>5. Consequently, there are significant number of complaints (592 of 1493 or 40 percent of total complaints) which were marked as not maintainable in the first place owing to incomplete information or otherwise outside the scope of stock exchange. Around 49 percent of these were marked as resolved, 42 percent were marked as unmaintainable, and remaining are under process.<sup>4</sup> The criteria based on which incomplete complaints have been marked as unmaintainable, resolved, or under process is not clear. This creates a lot of confusion and does not validate the claim that the exchange resolution process is effective and efficient. It is also not clear if feedback from complainants was obtained to determine resolution status of the complaints, and if such resolution was to their satisfaction.</p>	<p>3. In this regard, SEBI must clearly identify the problem, and its objectives, design different alternatives to achieve the objectives, compare costs and benefits of different options and then suggest a particular option which has the potential to achieve the objective in a manner that costs on stakeholders are significantly outweighed by the benefits. Such non-partisan assessment in consultation with public with enable SEBI to arrive at best solutions to problem.</p> <p>4. For instance, while harnessing online dispute resolution mechanisms might be good idea per se, it cannot be the only option for improving investor grievance redress mechanisms for securities markets in India. Other options, in addition to ODR (or as its alternative, depending on the resources available and clarity of problem) could be, reducing information asymmetry, improving information dissemination, easing of access and use of process, timebound resolution of complaints, taking feedback from complainants about resolution of complaints, among other things.</p> <p>5. The potential of all these options for enhancement of investor grievance redress process need to be examined, before zeroing down on ODR as the need of the hour,</p>

<sup>2</sup> <https://www.bseindia.com/investors/invgrievstats.aspx>

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		<p>6. Moreover, as on 31 December 2022, of 1153 complaints received against trading members, only 16 or 1.38 percent were advised by IGRC to refer to arbitration, if so desired. Such low utilisation of arbitration mechanism raises questions on its utility. Of these, only five awards were passed in favour of clients. Moreover, only 6 penal orders were issued against trading members as on end December 2022, and recovery of monetary penalty of merely 0.1 lakhs,<sup>5</sup> highlighting concerns regarding impartial nature of the process.</p> <p>7. Similarly, at the BSE Limited, during the ongoing financial year, 2863 complaints from investors were received till date (1 April 2022 – 20 January 2023) against listed companies. Of these, 2709 were marked as resolved.<sup>6</sup> It is not clear if feedback has been taken from the complainants regarding satisfaction of the resolution process. None of the complaints have been referred to arbitration, potentially raising questions on utility of the arbitration process.</p> <p>8. Moreover, as per SEBI’s recent Annual Report, as on March 31, 2022, there were 607 complaints pending with the stock exchanges. During 2021-22, 354 cases were received by the exchanges for the arbitration of complaints against trading members as compared to 842 in the previous year.<sup>7</sup> Such low utility of grievance redress and arbitration process raises concerns around its reach and effective use by investors.</p>	<p>and indicating that it should take precedence over other alternatives.</p>

<sup>5</sup> <https://www.bseindia.com/investors/invgrievstats.aspx>

<sup>6</sup> <https://www.bseindia.com/investors/invgrievstats.aspx>

<sup>7</sup> [https://www.sebi.gov.in/reports-and-statistics/publications/oct-2022/annual-report-2021-22\\_63812.html](https://www.sebi.gov.in/reports-and-statistics/publications/oct-2022/annual-report-2021-22_63812.html)

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		<p>9. Literature also validates such sub-optimal nature of grievance resolution process. For instance, a recent paper by Rane et al reveals that incidence rate of complaints for securities related products (at SCORES) is mere 0.1 percent. This is despite the fact that around 6 percent of users of securities product had a grievance with it. Reasons for low complaint rate include lack of awareness about the process, perception around unlikeliness of resolution, and costly process.<sup>8</sup></p> <p>10. Another paper by Gulati et al indicates that SEBI experienced more than 31 percent annual growth in complaints received, from 2019 to 2020. Also, there have been concerns of conflict of interest as officers of the redress agencies are appointed and funded by SEBI. Moreover, SEBI has resolution ratio of merely 71 percent, much less than other regulators, and appeal ratio of around 6 percent, significantly higher than other regulators. Its backlog rate is around 9 percent. This indicates significant scope of improvement in SEBI grievance redress process.<sup>9</sup></p> <p>11. Information asymmetry is one of the primary challenges faced by consumers, with respect to grievance redress. As per the Flesch Reading ease metric, all SEBI regulations fall within the 'difficult range' of text and represent complexity typically</p>	

<sup>8</sup> Vimal Balasubramaniam, Renuka Sane, Srishti Sharma, Consumer Grievance Redress in Indian Financial Markets, 11 May 2022, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4104911](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4104911)

<sup>9</sup> Karan Gulati and Karthik Suresh, Issues concerning Grievance Redress Mechanism (GRM) in Indian financial regulators, 10-January-2022, NIPFP Working Paper Series, [https://www.nipfp.org.in/media/medialibrary/2022/01/WP\\_364\\_2022.pdf](https://www.nipfp.org.in/media/medialibrary/2022/01/WP_364_2022.pdf)

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		<p>found in academic writing. SEBI’s annual report only mentions the number of grievances received and disposed during the year, without any additional details. This hinders consumers and third parties from evaluating the performance of regulators and making informed decisions.<sup>10</sup></p> <p>12. A recent public notice by SEBI highlights the problem of repeated complaints, possibly indicating the unsatisfactory nature of existing complaint resolution process.<sup>11</sup> During November 2022, SCORES portal received 2886 complaints. Average resolution time is 30 days, and around 11 complaints have been pending for more than 3 months.<sup>12</sup> SEBI is also planning to revamp its investor grievance portal,<sup>13</sup> potentially indicating to sub-par nature of the grievance redress process and its regulated entities.</p>	
3.	Para 8 at page 2: “In order to further strengthen the Investor Grievance Redressal Mechanism, and basis report of an internal Working Group constituted for this purpose, it is felt that this is an appropriate juncture....”	<ol style="list-style-type: none"> <li>1. To enable robust public consultation, the internal working group report should be released in public domain, for stakeholders to review its claims and examine its proposals.</li> <li>2. Without necessary information, stakeholders cannot be expected to completely and effectively engage with the consultation paper.</li> </ol>	<ol style="list-style-type: none"> <li>1. SEBI must release the report of Internal Working Group to strength investor grievance redress mechanism.</li> <li>2. Sunlight is the best disinfectant and thus transparency around the basis for discussion paper would enable stakeholders effectively engage with it.</li> </ol>

<sup>10</sup> Karan Gulati and Karthik Suresh, Issues concerning Grievance Redress Mechanism (GRM) in Indian financial regulators, 10-January-2022, NIPFP Working Paper Series, [https://www.nipfp.org.in/media/medialibrary/2022/01/WP\\_364\\_2022.pdf](https://www.nipfp.org.in/media/medialibrary/2022/01/WP_364_2022.pdf)

<sup>11</sup> <https://www.sebi.gov.in/info-public-comments.html> dated 8 January 2023

<sup>12</sup> [https://www.sebi.gov.in/media/public-notices/dec-2022/status-of-scores-complaints-as-on-november-30-2022\\_66043.html](https://www.sebi.gov.in/media/public-notices/dec-2022/status-of-scores-complaints-as-on-november-30-2022_66043.html) and [SEBI | Names of the companies/Intermediaries/MIs having complaints pending for more than 3 months on SCORES as on November 30, 2022](#)

<sup>13</sup> SEBI Annual Report 2021-22, page 9, at [https://www.sebi.gov.in/reports-and-statistics/publications/oct-2022/annual-report-2021-22\\_63812.html](https://www.sebi.gov.in/reports-and-statistics/publications/oct-2022/annual-report-2021-22_63812.html)

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4.	Para 11 on page 3: “This process, as is the case presently, may be initiated post exhausting all means of resolution of complaints filed by the investor through the concerned intermediary/ entity, MII (as applicable) and the SCORES Portal.”	<p>1. While exhausting of all means of resolution of complaints before initiating MII mediation/conciliation and arbitration mechanism is necessary, at present, investors are not necessarily aware of different tiers of dispute resolution. If they are not satisfied with the resolution, they typically have insufficient idea about avenues and means of exploring other available recourse avenues.</p> <p>2. Consequently, it would be essential to address the information gap and make it easier for investors access different means of redressing grievances, to truly make investor grievance redress mechanism effective and efficient.</p>	<p>1. Create an automatic user friendly mechanism to facilitate movement of complaint from one grievance resolution means to another, through investor consent and a rating of unsatisfactory resolution by aggrieved investors.</p> <p>2. Unless resolution processes are made user friendly, it may not be possible to truly realise the potential of related innovations and online mechanisms.</p>
5.	Questions in para 12A on page 3: i) Would such hybrid option, as envisaged, be sufficient and suitable, or should any further alternative be considered? ii) Should an online only approach also be considered? How do we promote the usage of online mediation/ conciliation or arbitration over physical processes?”	<p>1. As per SEBI annual report, of the 42,694 new complaints received during 2021-22, 37,425 complaints (or 87.2 per cent of the total complaints) were e-complaints, while remaining 5,460 complaints (or 12.8 per cent complaints) were physical complaints.<sup>15</sup></p> <p>2. Considering that a significant number of complainants are still required to use offline mode of filing complaints, it might be useful to examine the difficulties they are facing in filing online complaints. Only when such challenges are sufficiently addressed, should a thought of completely online dispute resolution mechanisms should be entertained.</p>	<p>1. A hybrid option is preferable given significant number of offline complaints at present. However, it should not be limited to arrangements made or facilities available at designated MII offices/ Investor Service Centers (ISCs).</p> <p>2. A sufficiency analysis of such centres is necessary before mandating them as the only centres from which online dispute resolution process can be participated into. Till the time they are unable to cover a significant portion of the country, assistance from credible consumer and civil society organisations, having experience in investor assistance, would be required. For instance, CUTS has been running consumer care centres for years now in Jaipur, Chittorgarh, Bhilwara,</p>

<sup>15</sup> [https://www.sebi.gov.in/reports-and-statistics/publications/oct-2022/annual-report-2021-22\\_63812.html](https://www.sebi.gov.in/reports-and-statistics/publications/oct-2022/annual-report-2021-22_63812.html)

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			<p>Pratapgarh, and other districts of Rajasthan.<sup>16</sup> Such avenues could be utilised for linking consumers with online grievance redress centres. If this is not possible, offline resolution could be offered at such centres.</p> <p>3. In addition, a large network of banking correspondents, bank mitras, and indiapost has been created across the country, and particularly in Rajasthan. The reach of such ‘samadhan mitras’ can be leveraged to collect complaints and facilitate redress, thereby engendering trust in the formal grievance redress mechanisms.</p>
6.	Question in para 12B on page 4: “Would relabeling IGRC into a panel of mediators and conciliators be suitable and appropriate for MII administered online mediation/conciliation and online arbitration, and be beneficial for the dispute resolution process as a whole?”	<p>1. While renaming the IGRC to clarify its function could surely be helpful, and rationalise investor expectations, equally important would be generate awareness among investors of the existence of such mediation/ conciliation process, its utility and mechanism to leverage it.</p> <p>2. As indicated earlier, at present, consumers do not sufficiently utilise such dispute resolution/ grievance redress mechanism, and significant efforts will be required to alter the status quo, much more than renaming the mechanism.</p>	<p>1. A function of the institution should be clear from its name. However, for an institution to effectively discharge its functions, the target stakeholder group (investors in this case), must be aware of the institution its functions.</p> <p>2. Consequently, equal awareness around generating awareness about functions of revamped mediation and conciliation mechanism would be useful.</p>
7.	Question in para 12C on page 5: “Would stipulation of sole arbitrator, irrespective of the amount of claim, be suitable and appropriate for MII administered online mediation/conciliation and	1. While determining the number of arbitrators are important, it is equally important to ensure that the background of arbitrator is such that she is able to	1. While one arbitrator can be present in less complicated process (value may not be the only criteria) and more could be present in more complicated ones, equal emphasis must be placed on qualifications and

<sup>16</sup> [Consumer Support Centre \(Grahak Sahayta Kendra\) | CUTS Centre for Consumer Action Research and Training \(CART\) \(cuts-cart.org\)](#) and [Grahak Suvidha Kender Collection Centres | CUTS Centre for Human Development \(cuts-chd.org\)](#)

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	online arbitration, and be beneficial for the dispute resolution process as a whole? Should a higher qualification for arbitrators be prescribed for claims over a certain threshold?"	<p>understand the perspective of, and empathise with, the investor.</p> <p>2. Already, information asymmetry, and resource and capacity constraints, result in uneven playing field between investor and accused, with the latter knowing all tricks of the trade. Consequently, it would critical that the arbitrators must be, and act with impartiality, fairness, and help each party present their point of view with clarity.</p>	<p>approach of arbitrators towards dispute resolution. Investors must be able to challenge the process to be followed by arbitrators, and arbitrators must be duty bound to disclose any conflict of interest before taking up the matter.</p>
8.	Question in para 12E on page 5: "Intermediary ties up with only one: MII and the investor may only approach this MII for initiation of mediation/conciliation/arbitration proceedings. In case an investor approaches the inappropriate MII, the MII would direct the investor to the appropriate MII."	<p>Investors should not be expected to identify the MII with which the intermediary is registered. She should be free to approach any MII and should MII should be able to quickly identify, with use of technology, if it is a relevant MII.</p> <p>In case it is not, such MII should be able to quickly and seamless transfer the matter to relevant MII without any additional burden to the investor.</p>	<p>There is a need to make redress process investor friendly.</p>
9.	Question in para 12F on page 6: "Are there any other measures necessary to specify for avoiding or mitigating any conflict of interests, of the ODR institution or the mediators /conciliators /arbitrators?"	<p>A cool off period could be provided to prevent revolving gates between intermediary and dispute resolution panel of the MII.</p> <p>Also, ODR administrators should disclose any conflicts, particularly with respect to investments in securities markets.</p>	<p>There is a need to pre-empt and avoid conflict of interest.</p>
10.	Question in para 12G on page 8: "Should the principle of refund to the party who secured the award and payment to the arbitrator by the party against whom the award passed be continued"	<p>Yes. This would incentivise investors to file and follow up on the dispute resolution process. The possibility of refund of investments made by investors to avail dispute resolution process, could act as necessary incentives for the investors to try the process.</p>	<p>There is need to ensure that dispute resolution process is cost effective for investors.</p>



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11.	Question in para 12 on page 4: "Publication of statistics and status of matters, disposals, etc. MIs will be required to publish aggregated statistics of.."	<p>1. Yes, periodic statistics of matters would be essential to gauge its effectiveness, and efficiency.</p> <p>2. In addition to indicators mentioned (all of which should be made public), feedback received from parties regarding resolution process, ratings provided, and summary of principles arising out of awards, which can serve as informal guidance (not necessary precedents) would be essential. In addition, details on penalties/ fines imposed and collected, compliance with specific performance/ arbitral award, timelines prescribed and followed, key interest statements by arbitrators must be made public.</p> <p>3. intermediaries should also be required to publish data/information on status, disposal etc of arbitration matters.</p>	Disclosure is key to evaluate effectiveness of dispute resolution process.

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