



Arbitration Department

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## **Guidelines for Initiating an Arbitration Claim**

The Chicago Board Options Exchange (CBOE or Exchange) sponsors an arbitration forum for the impartial resolution of disputes that arise

- between members and/or persons associated with members (member disputes), and
- between customers or non-members and members and/or persons associated with members (non-member disputes).

The terms member and person associated with a member include former members and associated persons. Chapter XVIII of the CBOE Constitution and Rules ("Rules") governs the proceedings.

Exchange Rules 18.1 and 18.3 set forth the requirements governing jurisdiction. Generally, disputes must involve Exchange business and Exchange members or associated persons. Exchange Rules require members and associated persons to submit to arbitration if an appropriate claim is filed by another member, a person associated with a member, or a non-member and the matter is accepted by the Director of Arbitration.

If a pre-dispute arbitration agreement (which may be contained in your account opening agreement, if any) allows for selection of the CBOE as the arbitration forum, the claim may also be submitted to the CBOE for resolution. However, a non-member Respondent may object to arbitrating at the CBOE. Although a non-member broker/dealer or associated person may agree to arbitrate a claim involving Exchange business at the CBOE, CBOE does not have the authority to compel a non-member to arbitrate.

Exchange Rule 18.15 sets forth the procedures for initiating a claim in all member disputes and in non-member disputes involving alleged damages in an amount greater than \$10,000. Rule 18.4 sets forth the procedures for non-member claims seeking relief in the total amount of \$10,000 or less, (i.e., small claims). Member disputes are not subject to the simplified arbitration procedures of Rule 18.4.

Before filing a Statement of Claim or Answer, please review the following points of information to prevent delay in the arbitration proceeding.

### **A. Initiation of Claim**

The following materials are required to be filed with the Director of Arbitration to initiate an arbitration claim:

- Statement of Claim, with sufficient copies for the arbitrators and each Respondent (Rule 18.4 or 18.15);
- Statement of Claim Form;
- Submission Agreement, properly executed by each Claimant and notarized, with sufficient copies for the arbitrators and each Respondent;
- Forum Fees, with check made payable to CBOE; and

- Hearing Information Form.

Note that the Respondent(s) must be **specifically** named on the Statement of Claim, Statement of Claim Form, and the Submission Agreement (e.g., "John Smith" or "Smith Securities, Inc."). Neither the "OEX crowd" nor "market-makers in ABC" are appropriate Respondents. Furthermore, neither the CBOE nor its employees may be named as parties to an arbitration.

1. Statement of Claim

- a. There is no required format for a Statement of Claim. It may be in narrative form.
- b. The Statement of Claim must clearly state the relevant facts and circumstances surrounding the dispute, (e.g., date the dispute arose, security involved, and the nature of the dispute). The Statement of Claim must also include a detailed description of the amount and type of relief sought. Claimants may seek costs, interest, attorney's fees and specified punitive damages. However, such claims should be separately set forth in the damages calculation.
- c. The Claimant must furnish the original Statement of Claim and supporting documents to the Arbitration Department, with sufficient copies for each Respondent and each arbitrator. Generally, one arbitrator will be appointed in non-member claims under \$10,000 (Rule 18.4). A panel of three arbitrators will be appointed for non-members claims over \$10,000 and in all member disputes (Rule 18.10).

2. Statement of Claim Form

- a. A completed Statement of Claim Form (signed by the Claimant(s), not the Claimant's attorney) must be submitted to the Arbitration Department upon the filing of the claim. This form provides information necessary for the Arbitration Department to administer the claim, including among other things, contact information for the Claimant and Respondent and whether or not the Claimant is represented by an attorney.
- b. A correct address for each Respondent should be provided. Parties may contact the Exchange's Membership Department at (312) 786-7449 to obtain the business address for an Exchange member.

3. Submission Agreement

- a. Each Claimant must sign, and have properly notarized, the Submission Agreement. **Be sure that the caption of the Submission Agreement sets forth each Claimant and each Respondent.** The Submission Agreement may not be executed by Claimant's attorney. The Arbitration Department will ask the Respondent(s) to sign the Submission Agreement.
- b. The original Submission Agreement, with sufficient copies for the Respondent(s) and arbitrators, must be submitted to the Arbitration Department.

4. Forum Fees

- a. The non-refundable filing fee and a hearing session deposit are required to be submitted with the Statement of Claim. The fee and deposit are based on the total damage figure, less attorneys fees, costs, and interest. Please refer to Exchange Rule 18.33(h). For claims that do not involve, disclose or specify a money claim, refer to Exchange Rule 18.33(e).
- b. Note that pre-hearing conference fees are submitted with a request for a pre-hearing. Such fees should not be submitted with the Statement of Claim.
- c. The filing fee is non-refundable. If a claim is settled or withdrawn prior to the first scheduled hearing, the hearing session deposit may be refunded, provided that the parties notify the CBOE Arbitration Department no later than eight (8) business days prior to the first scheduled hearing session.
- d. A hearing session is defined as any meeting between the parties and the arbitrators that lasts four (4) hours or less, including a pre-hearing conference. If more than one hearing session is required, the arbitrators may request that one or more party(ies) place additional hearing session fees on deposit with the CBOE.

5. Hearing Information Form

- a. The Hearing Information Form will be used by the Director of Arbitration in the selection of arbitrators and the allocation of time for the hearing. The information may be updated at any time.
- b. Although potential witnesses listed on the form will be shared with the arbitrators to avoid potential conflicts, the Department does not share this information with other parties. It is the responsibility of the parties to notify each other of witnesses they intend to introduce at the hearing. (See Rule 18.22)

6. Eligibility of Claims

Upon submission of a Statement of Claim, the Director of Arbitration will determine the eligibility of the matter under CBOE Rules. If the Director accepts the claim and the Claimant submits all required documents and fees, the Director will serve notice of the claim on the Respondent(s) in accordance with the procedures outlined in Exchange Rule 18.4, *Simplified Arbitration*, or Rule 18.15, *Initiation of Proceedings*.

Note that neither the CBOE nor its employees may be named as Respondents. If you need assistance in determining the Respondent(s) in your case, you may wish to consult an attorney or your broker.

7. Service of the Claim

Upon receipt of the materials specified above, the Director of Arbitration will serve the Statement of Claim and Submission Agreement on the Respondent(s) at the address(es) provide on the Statement of Claim Form, or such other address on record with the Exchange. **All subsequent documents and correspondence are served directly by the parties.**

**B. Answer to Statement of Claim**

The following materials are required to be submitted to the Department of Arbitration when submitting an Answer:

- Answer, with sufficient copies for the arbitrator(s) (Rule 18.4 or 18.15);
- Answer Form;
- Submission Agreement, properly executed by each Respondent and notarized, with sufficient copies for the arbitrators;
- Forum Fees, if any, with check made payable to CBOE; and
- Hearing Information Form.

**Note that the Respondent must serve the Answer and Submission Agreement directly upon each party to the dispute.**

1. Answer

- a. The Answer, which may be in narrative form, must specify all available defenses and relevant facts that will be relied upon at the hearing. It may include a Counterclaim, Cross-Claim or Third-Party Claim.
- b. The Answer must be served by the Respondent on the Claimant(s) and any other Respondent(s) within 20 business days from receipt of the Statement of Claim or 20 calendar days in the case of a non-member small claim filed under Rule 18.4. **Ordinarily an extension of the time within which to file an Answer will not be granted after the 20-day period has lapsed. Furthermore, pursuant to CBOE Rule 18.15(c)(2), it is within the discretion of the arbitrators to bar any untimely matter, arguments or defenses at the hearing.**
- c. The Respondent must file an original Answer and supporting documents with the Arbitration Department, with sufficient copies for each arbitrator. Generally, one arbitrator will be appointed in non-member claims under \$10,000 (Rule 18.4). A panel of three arbitrators will be appointed for non-members claims over \$10,000 and in all member disputes (Rule 18.10).
- d. If a Third-Party Claim is asserted, the Respondent must served the claim upon the Third-Party, together with a copy of the original Statement of Claim and Answer, and upon any other party to the dispute. The Third-Party claim must also be sent to the Director of Arbitration, with sufficient copies for the arbitrators. Service may be made by first-class postage pre-paid mail or by means of overnight mail service.

2. Answer Form

A completed Answer Form (signed by the Respondent(s), not the Respondent's attorney) must be submitted to the Arbitration Department upon the filing of the Answer. This form provides information necessary for the Arbitration Department to administer the claim, including among other things, contact information for the Respondent and whether or not the Respondent is represented by an attorney.

3. Submission Agreement

- a. Each Respondent must sign, and have properly notarized, the Submission Agreement. The Submission Agreement may not be executed by Respondent's attorney.
- b. The executed Submission Agreement must be served with the Answer upon each party to the dispute and filed with the Arbitration Department, with sufficient copies for the arbitrators

4. Forum Fees

- a. No forum fees are required to be submitted unless the Respondent submits a Counter, Cross, or Third-Party Claim with the Answer. If Respondent submits a claim, the non-refundable filing fee and a hearing session deposit must be submitted to the Director of Arbitration. The fee and deposit are based on the total damage figure, less attorneys fees, costs, and interest. Please refer to the fee schedule set forth in Exchange Rule 18.33. For claims that do not involve, disclose or specify a money claim, refer to Exchange Rule 18.33(e).
- b. Note that pre-hearing conference fees are submitted with a request for a pre-hearing. Such fees should not be submitted with the Statement of Claim.
- c. The filing fee is non-refundable. If a claim is settled or withdrawn prior to the first scheduled hearing, hearing session deposits may be refunded, provided that the parties notify the CBOE Arbitration Department no later than eight (8) business days prior to the first scheduled hearing session.
- d. If more than one hearing session is required, the arbitrators may request that one or more party(ies) place additional hearing session fees on deposit with the CBOE.

5. Hearing Information Form

- a. The Hearing Information Form will be used by the Director of Arbitration in the selection of arbitrators and the allocation of time for the hearing. The information may be updated at any time.
- b. Although witnesses listed on the form will be shared with the arbitrators to avoid potential conflicts, the Arbitration Department does not share this information with other parties. It is the responsibility of the parties to notify each other of witnesses they intend to introduce at the hearing. (See Rule 18.22)

6. Hearings and Arbitrators

Arbitration hearings are usually conducted in Chicago, Illinois. However, at the discretion of the Director of Arbitration, CBOE will administer arbitration hearings in other locations. Any request for a hearing in a location other than Chicago should be included with your initial submissions. In the event that a hearing is held outside of Chicago, the Exchange may contact other arbitration fora for referrals to qualified arbitrators. Generally, at least one arbitrator, who is a member of the CBOE Arbitration Committee, will be appointed as the securities industry arbitrator on the panel appointed to hear the dispute.

C. Discovery Procedures

1. **Exchange Rule 18.22 requires the parties to cooperate to the fullest extent practicable in the voluntary exchange of documents and information.**
2. Exchange Rules 18.22 sets forth the time frame for document and information requests and the deadlines for the productions of documents and information for all member claims, for non-member or public customer claims involving a dollar amount exceeding \$10,000, and for claims under \$10,000 that involve a hearing.
3. Discovery procedures for small claims resolved under the simplified procedures of Rule 18.4 are set forth in paragraph (h) of that Rule.
4. Copies of all document and information requests, and the response thereto, must be filed with the Director of Arbitration.
5. If a dispute arises regarding discovery, the Director of Arbitration should be notified in writing of the specific items in dispute. A prehearing conference, with one or more arbitrators, may be scheduled to resolve the discovery dispute or the Director may appoint a single arbitrator to resolve the dispute upon the papers submitted by the parties.
6. Pursuant to Rule 18.22(c), the parties are required to exchange document and witness lists at least twenty (20) calendar days prior to the first scheduled hearing date.
7. The parties are advised that neither the arbitrators nor the Department of Arbitration obtain information or documents directly from other Exchange departments or perform research for the parties regarding the merits of the claim or the facts in dispute.

**D. General**

1. The CBOE provides a neutral arbitration forum for the efficient and cost effective resolution of disputes. It is the parties' responsibility to work with the forum to facilitate the resolution of the dispute.
2. After the initial service of the Statement of Claim by the Director of Arbitration, it is the responsibility of the parties to provide all parties to the proceeding and the Department of Arbitration with all subsequent pleadings and correspondence.
3. The arbitrators' decision will be based on the documents and related material provided by the parties to a dispute and, if a hearing is held, documents and testimony presented at the hearing. Parties are advised to carefully and thoroughly prepared their case, either with or without the assistance of counsel. Such preparation will ensure that all relevant facts and evidence will be presented by the parties and considered by the arbitrators.
4. Under Exchange Rule 18.31, arbitration Awards are not required to set forth the reasons for the arbitrators' decision. The parties may request that the Award contain such reasoning, provided that a request is made prior to the hearing.
5. Arbitration Awards are final and binding upon the parties. Generally, when the parties submit a dispute to arbitration, they waive the right to resolve the matter in a court of law. Only very limited grounds exist for judicial review of arbitration Awards.

