



INVESTMENTS AND SECURITIES TRIBUNAL ALTERNATIVE DISPUTE
RESOLUTION (IST-ADR) CENTRE

FREQUENTLY ASKED QUESTIONS
(FAQ)

This is issued for guidance purposes ONLY.

By

The Investments and Securities Tribunal
Alternative Dispute Resolution (IST-ADR) Centre

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1.0 INTRODUCTION

1.1 What is IST-ADR Centre?

IST-ADR Centre is the Alternative Dispute Resolution Centre of the Investments and Securities Tribunal. The Centre is designed to provide sessions for the various Alternative Dispute Resolution Options/Processes.

1.2 Objective of IST-ADR

IST-ADR assists Parties in conflict using a structured process to dedicate more time and attention to the creation of a voluntary, functional and durable agreement tailored to meet the needs of particular parties.

1.3 What is alternative Dispute Resolution (ADR)?

It is an alternative to litigation. ADR method or process is expeditious, private and generally less expensive than litigation.

1.4 What are the ADR methods or Processes

The ADR options/methods include Mediation, Negotiation, Arbitration, Conciliation and Early Neutral Evaluation.

Mediation is a structured process whereby a third-party neutral assists the parties concerned in resolving their dispute. The outcome of this process is amicable and based more on relationship building. The parties own the agreement arrived at.

Negotiation is the process of talking or discussing with another person or group in order to come to an agreement or settlement or a dispute.

Conciliation is a process where a consensus independent third party as a facilitator assists the disputants to arrive at an amicable settlement. the conciliator as opposed to a mediator is more involved in proposing to parties' terms of settlement.

Arbitration is a process where a third-party neutral makes a binding decision regarding the merits of the dispute. The outcome of this process is binding except for advisory arbitration.

1.5 Who can be Third Party Neutral in IST-ADR?

Third party Neutral can be Mediators, Arbitrators, Retired Judges, Attorneys or individuals with particular experience or specialized training or expertise in any subject matter involved in the ADR process.

It is generally helpful to designate the third-party neutral with some degree of subject matter knowledge (such as capital market, mergers and acquisition, pensions etc) as well.

1.6 What kind of cases should be handled by IST-ADR Centre?

- ✓ Capital market, mergers and acquisition, pensions funds, trust schemes and related disputes which are not criminal in nature.
- ✓ Cases could be handled by IST-ADR at any state of litigation or even before the filing of lawsuit. Cases may be referred by regulators and other self regulatory organizations or selected from the Tribunal registry by the ADR officer or registrar.
- ✓ IST-ADR also welcomes walk-in capital market cases and also cases on appeal where the parties agree to use the process.

1.7 How is ADR different from Litigation?

The Litigation system is adjudged as very slow, very expensive and adversarial in nature. The endless adjournments in litigation cause stress and frustration for litigants. Justice is more often delayed and therefore denied.

- ✓ Whilst the Investments and Securities Tribunal combines the rule of law applicable in traditional Law Courts with responsiveness, flexibility, speed, and cost effectiveness associated with specialized courts, the ISTY-ADR Centre has similar attributes but devoid of the traditional laws or any technically associated with a High Court or Tribunal.

1.8 Could a matter that had been treated by ADR still be presented to the Tribunal or vice versa?

Matters that have been treated but not concluded by the ADR can be presented to the Tribunal as litigation is always there as a final fall back. The option of going back to the Tribunal if parties fail to settle is available.

1.9 Do I need to have a lawyer to bring my case to IST-ADR?

NO. The parties have the right to be assisted by a legal practitioner or by any other person. It is entirely the disputants' choice, as they may choose to conduct the process on their own. Parties or their counsels must be prepared to discuss the substance of the case as well as procedure and dynamics.

Clients are encouraged to attend the process with or without their counsel. Counsels are encouraged to assist the process and not resist it.

1.10 Are there fee for referring or bringing a case to IST-ADR Centre?

- ✓ The fees payable are as contained in the IST-ADR Schedule of Fees.
- ✓ The parties share the fees and expenses in equal parts except where otherwise agreed upon by the parties.

1.11 Can IST-ADR handle cases outside Abuja?

YES. IST-ADR will arrange an appropriate date and location for the ADR session anywhere and also coordinate the exchange of case summaries between the parties and the Third Party Neutral.

1.12 Where does the Dispute Resolution Session take place?

IST-ADR sessions are conducted in facility rooms which are environment friendly. The setting of the facility rooms allows for easy communication process, and ensures good rapport between parties.

2.0 PRELIMINARY MATTERS

2.1 How can cases begun?

Cases could be brought either by reference or appeal on a decision of a regulator or by originating a case with IST-ADR directly.

2.1.1 How are references made?

Any party or parties to a dispute may initiate ADR service simply by writing the IST-ADR, or by filing Request / or Submission Forms (forms 1 and 2) provided by IST-ADR Center.

2.1.2 How are cases originated?

Cases are originated by the initiating party or authorized representative completing the IST-ADR forms 1 and 2 and attaching all the documents required under the ADR Procedural Rules of 2005.

2.2 Is there a time limit?

Most matters are settled between one day to three months. However, issues that are more complex may take longer. A session usually lasts for three hours. Most issues are settled in a maximum of four sessions. Where there are multiple parties, it might take longer. The time the process takes is dependent on the willingness of the parties to settle and the role of their legal representatives. Where parties are represented by counsel, the reception of the attorney to the ADR process is crucial.

2.3 What happens next?

Upon filing the request or submission forms the IST-ADR assigns the case or matter to a Third party Neutral (TPN), who promptly schedules a preliminary meeting. At this meeting, the TPN explains the ADR options to the parties and assists in choosing the most appropriate option and its modus operandi.

2.4 Can a case be withdrawn or settled?

YES. Parties can withdraw at any time from the process depending on the mechanism adopted. However, parties are encouraged to see the process to its conclusion.

2.5 Where can I get help?

IST-ADR Centre staff will respond to enquiries, correspondence and telephone calls and may also advise on procedural matters. They cannot advise parties on the merits of the case or how to prepare it.

Tel: 09 234 314 7223; 09 234 314 7224

e-mail: istadr@gmail.com

3.0 THE DISPUTE RESOLUTION SESSION

3.1 When and where will my case be resolved?

The parties having completed the request or submission forms will agree on venue and schedule of sessions suitable to them, the case will be resolved subject to the commitment of the parties to ADR process.

3.2. What are the benefits of ADR?

ADR processes save time and money. If pursued early, can save substantial time and money by producing earlier settlements.

- Increased flexibility and control
- Confidentiality: ADR processes are generally confidential; which encourages openness and candor, these are important factors for an effective process.
- Improved communication and preservation of relationship between the parties.
- It gives the parties the chance to tell their stories – an opportunity to be heard, their own way.

- Reduce stress, disputants are generally satisfied with both the process and the results are more likely to abide by the terms of the resolution.

3.3 What are the rules of IST-ADR Centre?

The rules are set out in the IST-ADR Procedural Rules of 2007.

3.4 Can I adjourn or cancel a scheduled session?

Written request for adjournments received ten (10) days before the scheduled session, consented to by the parties would be accommodated by the IST-ADR. If an adjournment is requested by a party within 7 days of the session, the party or his counsel would have to state reasons for the late adjournment. IST-ADR may turn down the request or may go ahead and approve the adjournment having received the consent of the other party. A cancellation fee may be paid by the requesting party.

In mediation, the Center may not be able to turn down adjournment. It would have to use effective skills to bring parties to the table. This is a skill the mediator should have.

3.5 Termination

Depending on the ADR option chosen by the parties, when the parties reach an agreement, the terms of settlement are drafted with the assistance of the Third Party Neutral. Once reduced to writing and signed by parties, it becomes a legally binding agreement.

The mediation process may be terminated in either of the following ways:

1. Any of the parties may opt to terminate the process at any time.
2. On settlement and the signing of the Settlement Agreement.
3. If the parties fail to reach a settlement on any of the issues, they may submit such issue(s) to MED_ARB or withdraw completely. ARBITRAL awards are binding and subject to application to the court are enforced by the Court.

3.6 What happens at the end of a session?

Depending on the ADR option chosen by the parties, when the parties reach an agreement, the terms of settlement are drafted by the parties with the Third-Party Neutral facilitating the process. Once reduced to writing and signed by parties, it becomes a legally binding agreement. If the parties fail to reach a settlement of any or all of the issues, they may submit such issues(s) to other type of dispute resolution mechanism or withdraw completely.

3.7 Could the information or documents provided at the ADR session be used at the Tribunal or other High Courts?

ADR ensures confidentiality. The TPN is not allowed to use his notes or information obtained from the ADR session in a subsequent court action, which ensures the privacy of the parties and a greater willingness to resolve without fear of disclosures being used against the disclosing party.

3.7 Follow-up

An independent evaluation of the ADR session is carried out among the parties and their counsel who participated in the IST-ADR sessions to assess the skill of the TPN (Mediator or Arbitrator) in question.

4.0 OTHER INFORMATION

4.1 Useful law/Rules

- Investments and Securities Act, 2007
- The Investments and Securities Tribunal (Procedure) Rules, 2014
- Securities and Exchange Commission Rules and Regulations, 2007
- Investments and Securities Tribunal Alternative Dispute Resolution Procedural Rules 2016