

Resolving Impact Investment Disputes: Current Practices and Future Opportunities

Findings from the 2026 Grunin Center Dispute Resolution Survey



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Executive summary



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This report presents the principal findings of the 2026 Grunin Center Dispute Resolution Survey, *Resolving Impact Investment Disputes: Current Practices and Future Opportunities*, which examines how disputes arising in impact investment are currently managed and how dispute resolution might be improved.

The survey of market participants and follow-on qualitative interviews were conducted between November 2025 and May 2026. This research reveals several key findings.

- Respondents report meaningful dispute experience, with a significant proportion having been involved in more than ten impact investment disputes over the preceding five years.
- Notwithstanding this experience, impact investment disputes are overwhelmingly resolved through informal means—discussion, restructuring, and party agreement—rather than through formal proceedings. The preference for informality is driven by considerations of cost, enforcement uncertainty, relationship preservation, mission alignment, reputational dynamics within a compact industry, and general inexperience with formal dispute resolution mechanisms.
- Where formal dispute resolution clauses are included in contracts, there is a near-even split between arbitration and litigation, with New York and London courts and arbitral seats predominating.
- When impact investment practitioners do consider arbitration, their priorities sometimes diverge from those of the broader international arbitration community: cost minimization is the single most valued characteristic, while enforceability of awards—the favored attribute among general commercial users according to the 2018 International Arbitration Survey by Queen Mary University and White & Case—ranks substantially lower.

Viewed as a whole, these findings suggest that the dispute resolution needs of the impact investment sector are shaped by distinctive operational and mission-driven constraints that are not fully addressed by existing formal mechanisms.

Respondents expressed strong interest in the development of dispute resolution mechanisms better suited to the distinctive characteristics of impact investment. They confirmed that a more practical and accessible dispute resolution option could reduce institutional hesitancy and increase risk appetite, effectively functioning as a form of security that makes risky markets more accessible to impact capital. Others emphasized that many impact investors lack the resources to sustain prolonged formal proceedings, and that streamlined dispute resolution mechanisms could meaningfully improve operational efficiency across the sector.

Introduction

The term “impact investment” was created in 2007, although there have been forms of impact investing taking place for centuries. While defining what “counts” as an impact investment in today’s world is more art than science, a common working definition of impact investment, as described by the Global Impact Investing Network (GIIN), are those investments that are made with the intention to generate positive, measurable social or environmental impact alongside a financial return.

To unpack this definition, there are at least three components that distinguish an impact investment from more commercially-oriented investments and, at the other end of the continuum, philanthropic grants:

- 1) an *investment* (which presupposes a return of capital, at the very least),
- 2) an *intention* to generate a positive impact (in addition to financial returns), and
- 3) a desired impact that is capable of measurement (how and when to conduct that measurement is the subject of much ongoing discussion within the impact investing community).

Applying that definition, the impact investment market has grown significantly over the last two decades since the term was first coined and it is expected to keep growing rapidly in the years ahead. In 2024, the GIIN estimated that impact investments accounted for over \$1.5 trillion of assets under management (AUM) globally.¹ Some now project that this market will grow to over \$2 trillion AUM by 2031.²

Impact investing has never been one-size-fits-all. Rather, one can see a continuum within which market participants fall depending on what

investment goals are being prioritized – ranging from participants seeking market-rate returns (“finance first”) to those who prioritize the generation of social or environmental impact returns (“impact first”). Within this continuum, as might be expected, there are a wide range of investment structures, allocations of risk, and types of market participants, to name a few. With the entry of new market participants, this variety is likely to become even more pronounced as new entrants bring a variety of new return expectations, regulatory constraints, funding structures, and even contractual approaches to this market.

It is against this backdrop that the Grunin Center for Law and Social Entrepreneurship at NYU School of Law and the global law firm White & Case collaborated to investigate an under-researched topic in this market. Namely, we asked: how do impact investors today manage and resolve disputes that arise in their investments? In doing so, we took a two-step process—first conducting a written survey of lawyers working in the impact investing market, and then conducting qualitative interviews with many of those survey respondents.

The research results described below were shared in June 2026 with nearly four dozen lawyers who are actively involved in supporting those engaged in impact investing—often in the roles of

in-house counsel or external counsel, and those studying this market from an academic perspective. We drew not only on those who responded to the written survey but also on those who had not responded but had insights from practice to bring to our interpretation of survey responses and comments made during our qualitative interviews. We also compared our survey responses against the Queen Mary and White & Case International Arbitration survey of 2018 to see where market practices and perceptions in impact investing might deviate from more commercial practices and perceptions.

This research is intended to be but a first step in benchmarking current practices and approaches in the impact investing market. As the impact investing market grows and evolves in coming years, we expect future surveys to be conducted to see if market participant approaches to disputes are changing from the current practices observed in 2026 and, if so, how. We also anticipate that the results of this ongoing research will provide much fuel for thought about how the existing ecosystem of dispute resolution mechanisms can better respond to the needs of market participants engaged in impact investing.

The Grunin Center is grateful to White & Case for their support and contributions to this important research.

¹ Dean Hand et al, “Sizing the Impact Investing Market 2024,” GIIN: October 2024 (available at GIIN website). Researchers at GIIN estimate that over 3097 organizations were managing \$1.571 trillion of impact investment assets under management (AUM) worldwide in 2024. This represented a 21% compound annual growth rate (CAGR) of the impact investing market since 2019.

² Impact Investing Market Analysis (Mordor Intelligence: January 2026).

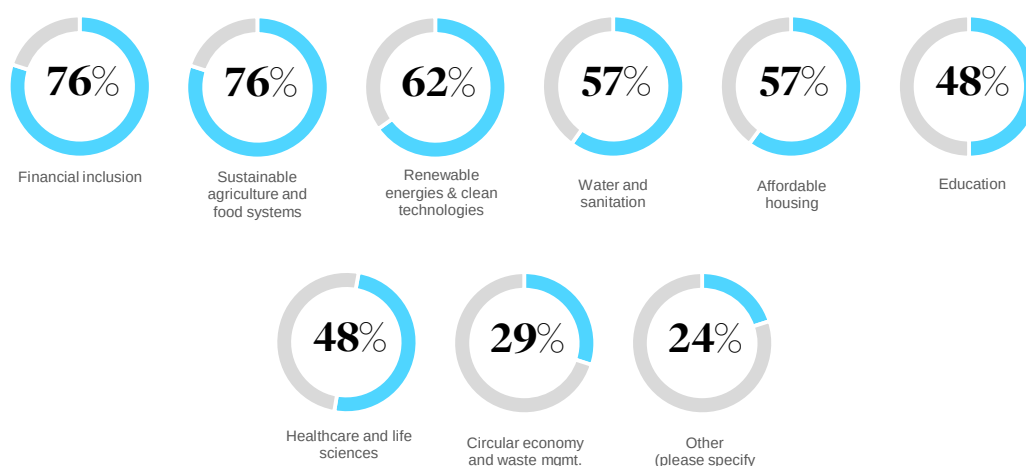
Profile of Survey Respondents

The survey gathered 21 completed questionnaires from respondents who are active across the impact investment ecosystem and conducted interviews with 13 of them. The organizations that the respondents represent are collectively responsible for a substantial volume of impact investments, spanning numerous transactions across multiple asset classes, geographies, and sectors.

Respondents represent a range of institutional profiles, including national and international development finance organizations, impact fund managers, impact investment advisors, law firms, and academia. Respondents reported operating across a wide range of geographies and sectors. The most frequently cited regions were Sub-Saharan Africa, Latin America, the Caribbean, and Asia (excluding Central Asia).

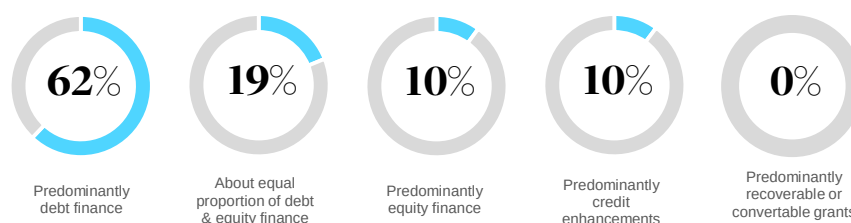
Sector exposure is similarly broad, with the most common areas being financial inclusion, sustainable agriculture and food systems, and renewable energy and clean technologies. This is shown in Chart 1 below.

Chart 1: Industries in which survey respondents invest or operate



Debt finance is the predominant type of financing of the impact investments in which respondents were involved over the past five years, with equity financing being substantially less frequent. See Chart 2.

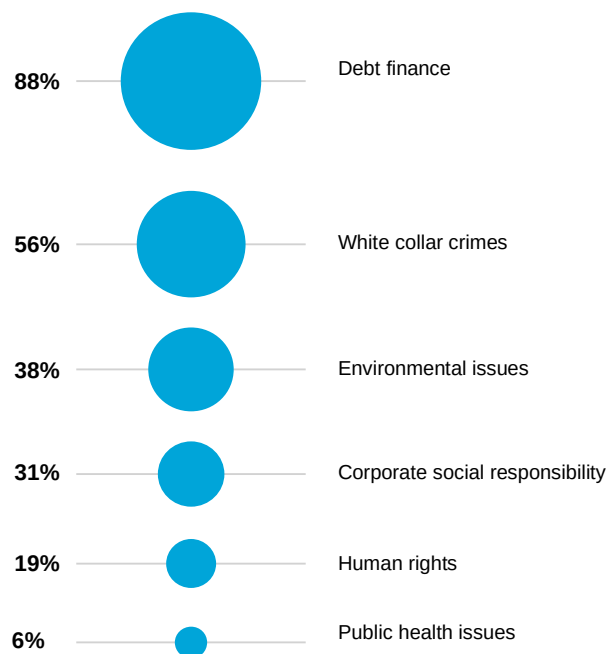
Chart 2: Types of impact investment financing used in the past five years



Substantial Disputes Experience

Respondents reported meaningful dispute experience over the preceding five years, with 40% indicating involvement in more than ten impact investment disputes. The most frequently reported categories of dispute involve debt finance issues, such as failure to repay and breach of financial covenants, followed by white collar matters, such as bribery, corruption, or fraud. See Chart 3 below. The predominance of debt finance disputes is consistent with the finding, reflected in Chart 2 above, that debt finance is the most common form of impact investment financing among respondents.

Chart 3: Types of issues raised in impact investment disputes in the past five years

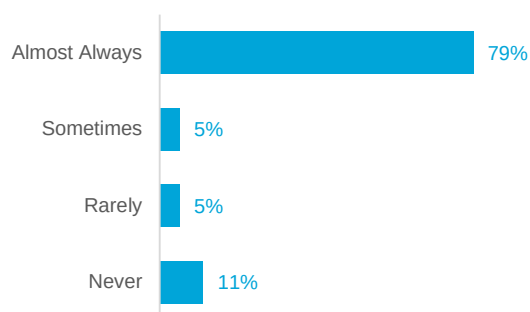


Preference for Informal Resolution

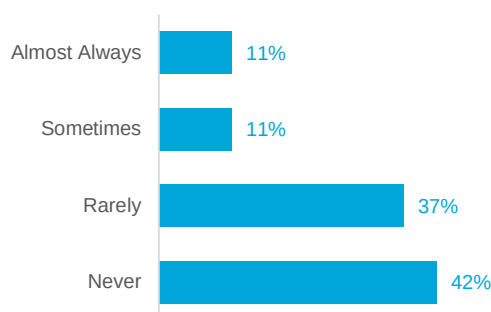
The survey finds that impact investment disputes are almost always resolved through discussion and party agreement rather than through formal proceedings. This is illustrated in Chart 4 below.

Chart 4: Experience with formal and informal dispute resolution in the past five years

Over the past five years, how often were your impact investment disputes resolved by **party agreement**, as opposed to a decision in a formal dispute resolution process:



Over the past five years, how often were your impact investment disputes **resolved through a decision in a formal dispute resolution process**:



When asked why they prefer informal resolution, respondents identified several recurring themes. These relate to cost and proportionality, duration and enforcement uncertainty, relationship preservation and mission alignment, reputational dynamics within a small ecosystem, and general inexperience with formal processes. Each is discussed below.

Relationship preservation and mission alignment

Respondents identified concerns rooted in the impact-driven nature of their investments. A recurring theme was that formal proceedings may be seen as inconsistent with an impact-first approach: prevailing through litigation or arbitration may undermine the social or environmental outcome the investment was designed to support. One respondent explained that even where an investee is in breach of multiple contractual obligations, the organization refrains from declaring a formal default because its primary objective is to preserve the underlying impact. More broadly, payment difficulties were typically characterized not as contractual wrongs warranting enforcement, but as consequences of operating-environment challenges (political events, business-model difficulties, or external crises) prompting a patient process of restructuring rather than recourse to formal remedies.

Cost

Several respondents noted that formal dispute resolution is perceived as prohibitively expensive, leading parties to exhaust all avenues for amicable resolution before considering formal proceedings. Interviewees also observed that the procedural and counsel fees associated with arbitration can represent a substantial proportion of the claim value, rendering the mechanism disproportionate for certain impact investments.

Duration

Respondents cited concerns about the time that formal proceedings would consume. The prospect of a multi-year process, diverting attention and funds from the organization's core investment activity, was widely viewed as incompatible with the operational realities of impact investment.

Preference for Informal Resolution (cont'd)

Enforcement

Voluntary compliance with arbitral awards or court judgments was described as inconsistent, and the additional step of enforcement proceedings further extends timelines and increases costs, with the attendant risk that the counterparty may lack assets that are readily collectible and monetized.

Reputational considerations in a small ecosystem

These mission-driven concerns are reinforced by the reputational dynamics of a relatively small and interconnected community. Respondents observed that the impact finance ecosystem is compact, that reputation can therefore travel quickly, and that this awareness tends to encourage resolution without recourse to formal proceedings. Informal community knowledge and the prospect of reputational consequences can function as a practical discipline on counterparty behavior, given that deal flow in the sector depends substantially on trust and referral networks.

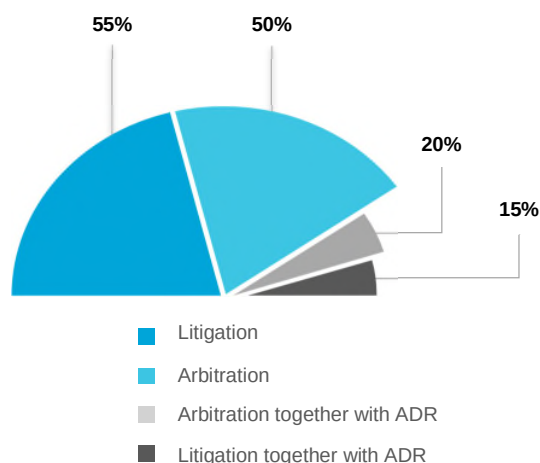
General inexperience with formal processes

A further consideration is that many respondents have limited direct experience of formal dispute resolution. Several respondents noted that their organizations had never submitted a dispute to arbitration or litigation. Formal proceedings were described as rare across the community, suggesting that dispute resolution clauses are routinely drafted but seldom activated, which reinforces a default towards informal resolution.

Split Between Arbitration and Litigation Clauses

Survey responses indicate an even split between litigation and arbitration as the preferred formal mechanism, with litigation clauses appearing in contracts approximately as often (70%) as arbitration clauses (70%). Interviews were consistent with this picture. Some respondents expressed a preference for one mechanism or the other depending on the circumstances of the particular investment, such as deal size, the jurisdiction of the counterparty, or the nature of the dispute. Others expressed no strong preference between the two. Across both groups, a common thread emerged: dispute resolution clause design is frequently under-considered, with clauses often carried over from boilerplate templates rather than tailored to the characteristics of the particular transaction.

Chart 5: Forms of dispute resolution typically included in the contracts of your organization or in the contracts of organizations you advise



These responses contrast with the 2018 International Arbitration Survey by Queen Mary University and White & Case, where 87% of respondents indicated a preference for arbitration for resolving international disputes, and only 10% indicated a preference for litigation.

Respondents in the Grunin survey identified several recurring considerations that drive the choice between arbitration and litigation:

- Cross-border enforceability is an important factor, with arbitral awards seen as more reliably enforceable across jurisdictions than court judgments.
- Cost also plays a role, with arbitration sometimes preferred for in-house efficiency (in some circumstances allowing in-house counsel to manage disputes without outside counsel) but also often viewed as disproportionately expensive for smaller claims.
- Speed matters, particularly where local litigation timelines extend over many years. Concerns about bias or unpredictability in local courts may further push parties toward arbitration.
- Confidentiality is valued given the reputational sensitivities of the impact investing sector, though it may be deliberately foregone in fraud cases to achieve a deterrent effect through publicity.

Where respondents select litigation as the formal dispute resolution mechanism, New York and London courts are the predominant choices, with other options—such as local courts in the jurisdiction where the investee is located—ranking a distant third (grouped in the “Other” category in Chart 6 below). In this regard, several respondents raised concerns about the impartiality and independence of local courts in many of the jurisdictions in which they deploy impact capital, citing this as a significant factor in their preference for alternative fora.

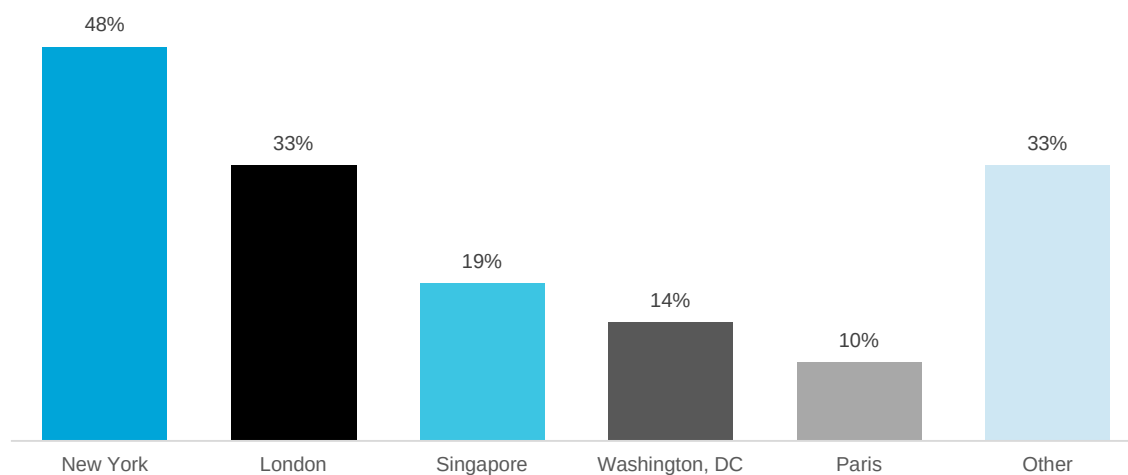
Split Between Arbitration and Litigation Clauses (cont'd)

Chart 6: Preferred jurisdictions for litigation



The picture for arbitration is broadly similar: New York and London are by far the preferred seats, although the margin over other options is narrower than in the litigation context, indicating that arbitration seat selection is influenced by different, or a wider range of, considerations. See Chart 7 below.

Chart 7: Preferred seats of arbitration



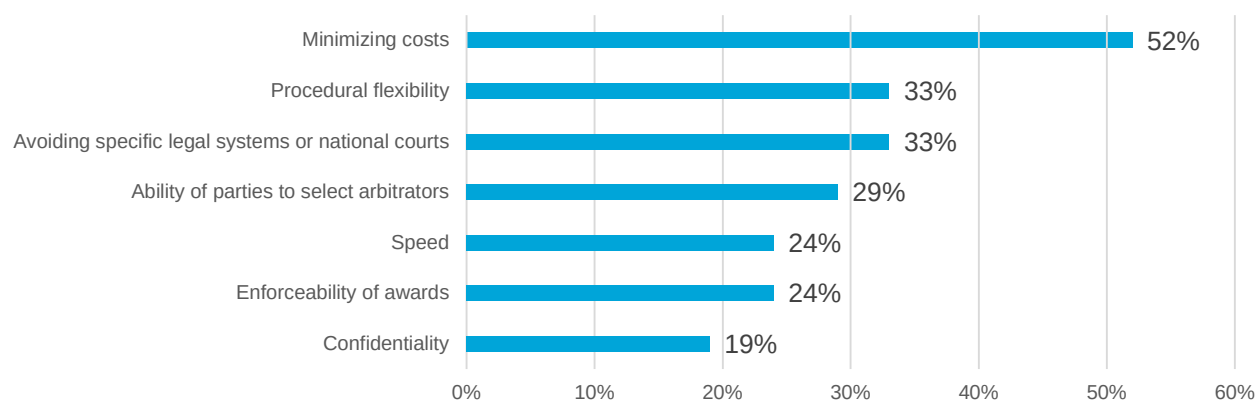
International Arbitration in Impact Investing

International arbitration may be well suited to the resolution of impact investment disputes arising in a cross-border context. It allows parties to shape the dispute resolution process to the needs of the transaction, for instance, by selecting arbitrators with relevant expertise or adopting expedited procedures to reduce time and cost. Arbitration also provides a framework for cross-border enforcement through the New York Convention, which facilitates recognition and enforcement of arbitral awards in 172 jurisdictions worldwide.

Most Valuable Characteristics of Arbitration

Respondents were asked to identify the characteristics of arbitration that they consider most valuable in the context of impact investment disputes. Answers are shown in Chart 8 below.

Chart 8: Most valuable characteristics of arbitration for resolving impact investment disputes

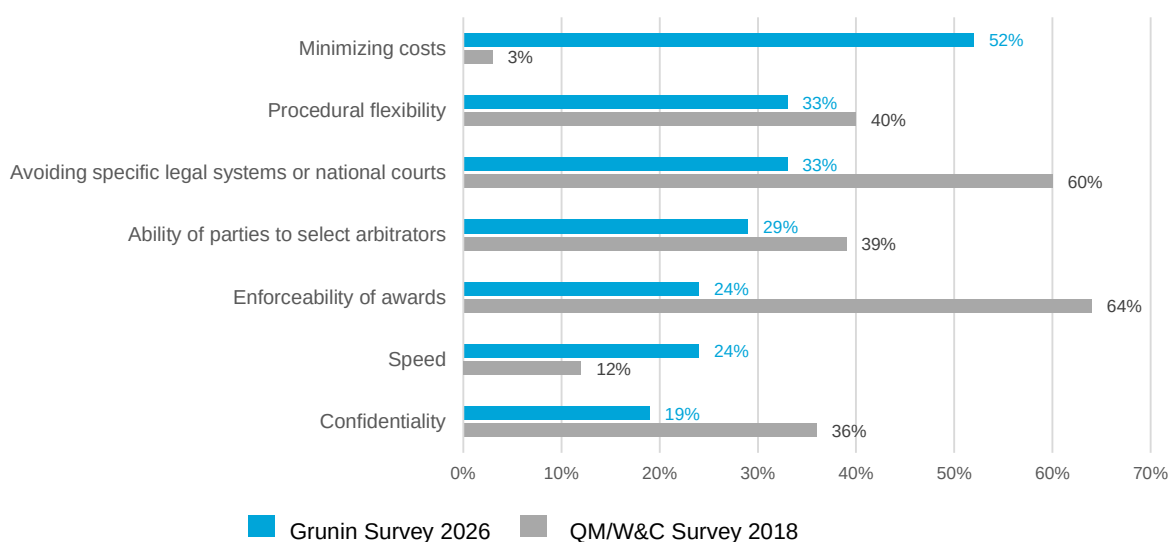


The ability to minimize costs was the most frequently selected valuable characteristic, chosen by 50% of respondents, underscoring the cost sensitivity that pervades the impact investment sector. Procedural flexibility, including the availability of expedited procedures, and the ability to avoid specific legal systems or national courts were each selected by 35% of respondents, reflecting a dual concern with tailoring proceedings to the needs of the dispute and insulating the process from perceived shortcomings in local judicial systems. The ability of parties to select arbitrators with relevant knowledge and expertise was identified by 30% of respondents, consistent with the broader demand for specialist neutrals discussed below. Enforceability of arbitral awards and speed were each cited by 25% of respondents. Notably, confidentiality, which is often regarded as an important feature of commercial arbitration, was selected by only 15% of respondents.

In some respects, these results diverge markedly from the findings of the 2018 Queen Mary and White & Case International Arbitration Survey, which posed the same question to a broader pool of international arbitration users. See Chart 9 below.

International Arbitration in Impact Investing (cont'd)

Chart 9: Most valuable characteristics of arbitration for resolving impact investment disputes

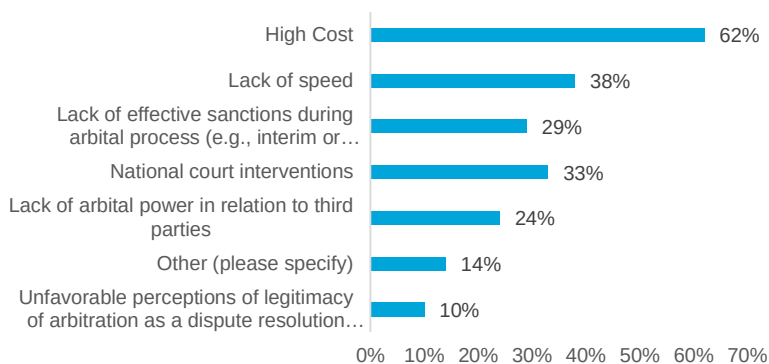


In the Queen Mary and White & Case survey, the most frequently selected valuable characteristic was enforceability of awards, followed by avoiding specific legal systems or national courts. Cost was selected by only 3% of respondents, the lowest-ranked option. The Grunin survey results effectively invert this hierarchy: minimizing costs, which featured only marginally in the Queen Mary survey, was the single most valued characteristic among impact investment respondents, while enforceability of awards (the leading attribute in the Queen Mary survey) was selected only in fifth place by Grunin respondents. These divergences suggest that the priorities of impact investment practitioners are shaped less by the structural advantages of the arbitral framework and more by the practical constraints—above all, cost—that define the operating environment of impact finance.

Most Significant Challenges to Using Arbitration

Respondents were also asked to identify the most significant challenges to using arbitration in the context of impact investment disputes. The answers are shown in Chart 10 below.

Chart 10: Most significant challenges to using arbitration for impact investment disputes



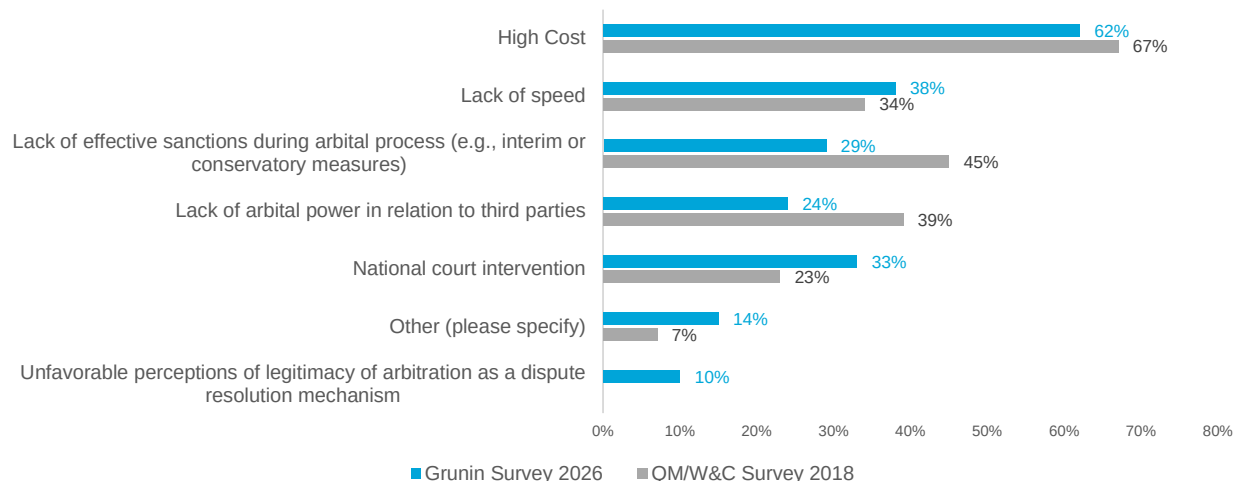
International Arbitration in Impact Investing (cont'd)

Cost was identified as the most significant challenge, selected by 60% of respondents, reinforcing the finding that cost sensitivity is the dominant consideration shaping attitudes toward arbitration in the impact investment sector. In this connection, one respondent reported that the choice of New York litigation as the preferred dispute resolution mechanism was informed by the availability of pro bono litigation counsel in that jurisdiction. Other respondents indicated that if pro bono counsel were similarly available for arbitration, this could significantly increase their readiness to pursue arbitration where necessary.

Lack of speed was the second most frequently cited challenge, selected by 35% of respondents, consistent with the broader concern that protracted proceedings are incompatible with the operational realities of impact finance. The difficulty of securing effective interim, conservatory, or emergency relief and national court intervention were each selected by 30% of respondents, reflecting concerns about both the procedural limitations of arbitration and the risk of judicial interference at the seat or place of enforcement.

These results may be compared with the responses to the same question in the 2018 Queen Mary and White & Case International Arbitration Survey. See Chart 11 below.

Chart 11: Most significant challenges to using arbitration for impact investment disputes



The two surveys converge on certain points: cost was identified as the most significant challenge in both surveys, and lack of speed was selected by a comparable proportion of respondents. The surveys diverge, however, in other respects. In the Queen Mary survey, respondents assigned considerably greater weight to the lack of effective sanctions during the arbitral process (such as interim measures) and the lack of arbitral power in relation to third parties. These differences may reflect the distinct profile of impact investment disputes, which tend to involve smaller claim values and bilateral contractual relationships, and in which the practical constraints of cost and duration may be more pressing than procedural concerns that feature more prominently in general commercial arbitration practice.

Improving Dispute Resolution in Impact Investing

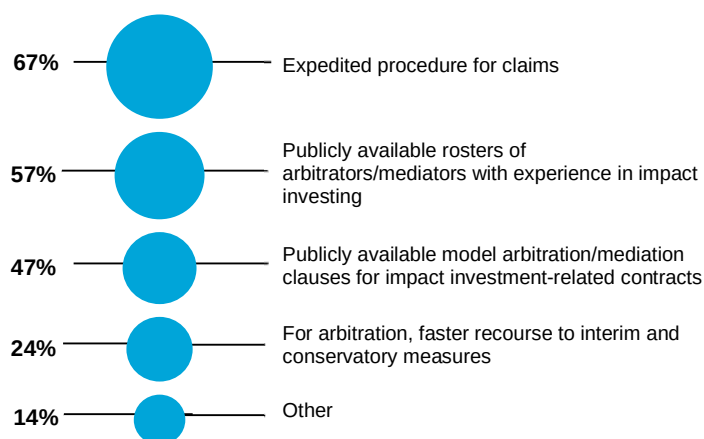
Improvement Priorities and Opportunities

Respondents were asked what improvements or innovations would make arbitration, mediation, and conciliation more suitable and feasible for impact investment disputes. Three priorities attracted the strongest support, as shown in Chart 12.

The articulated benefits of these potential reforms extend beyond individual disputes. Respondents suggested that a more practical and accessible dispute resolution option could reduce institutional hesitancy and increase risk appetite, effectively functioning as a form of insurance that may make risky markets more accessible to impact capital.

The three top improvement priorities are discussed below.

Chart 12: Improvements and innovations that would make arbitration, mediation or conciliation more suitable for impact investment disputes



Expedited Procedures

Expedited procedures for claims was the top-ranked improvement, selected by 67% of respondents. The principal reasons cited were the need for a quick outcome and the desire to minimize costs. Only three respondents reported firsthand experience with expedited arbitration, indicating general practical inexperience with this procedural mechanism.

The demand for speed is contextually grounded. Some interviewees characterized payment defaults (estimated as constituting the majority of impact investing disputes among respondents) as ideally suited to expedited processes, typically requiring little more than evidence of non-payment, without the need for extensive document discovery or witness evidence. Some respondents observed that proceedings lasting one to two years are too slow for defaulted assets, and were receptive to a six-month resolution timeframe as more appropriate. Additional rationales included the desire to avoid diverting scarce organizational resources from core operations.

Publicly Available Arbitrator Roster

A publicly available roster of arbitrators and mediators with experience in impact investing was the second-ranked improvement, selected by 57% of respondents.

Respondents emphasized the importance of appointing neutrals who understand the impact investing sector, including impact considerations that distinguish impact investments from conventional finance. The demand for such specialist arbitrators also reflects a perceived information gap. Among respondents who have needed to identify a neutral, the large majority (75%) relied on external counsel, with fewer than half drawing on publicly available information or arbitral institutions. Respondents expressed a desire for more structured information about arbitrators' experience with impact investment disputes and their sector knowledge.

Improving Dispute Resolution in Impact Investing (cont'd)

Publicly Available Model Clauses for Impact Investment Disputes

Publicly available model arbitration and mediation clauses for impact investment-related contracts were the third-ranked improvement, selected by nearly half of respondents.

The case for standardization is both practical and educational. Interviewees observed that adoption of arbitration would be significantly easier if there were a recognized standard, accessible in plain language and enjoying wide use, that eliminates the friction of negotiating bespoke clauses in every transaction. Industry-wide adoption was also seen as particularly important: knowing that other investors and creditors are using the same framework would provide an incentive for uptake.

Confidentiality of Arbitral Awards

When asked whether arbitral awards deciding impact investment disputes should be made public, a clear majority of respondents favored publication with redactions, while a substantial minority preferred that awards remain confidential; no respondent supported publication without redactions. See Chart 13 below.

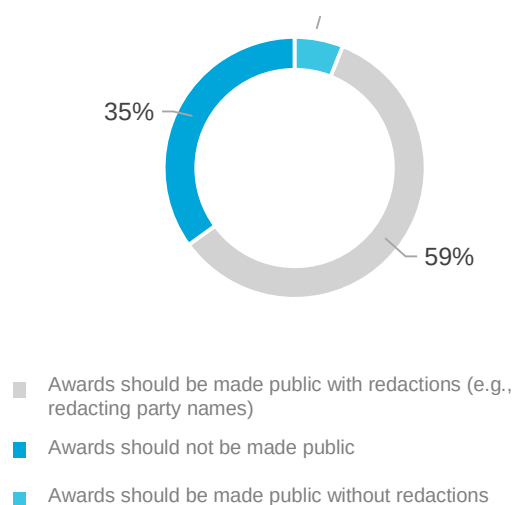
The Case for Confidentiality

Respondents opposing publication noted that the impact investing sector tends to be a tight-knit community, which can make parties identifiable in an arbitral award even if the award is published with redactions. This may raise concerns in circumstances where participants in this sector “trade on reputation.” Proprietary information, including loan documentation and deal structures, was also cited as content that parties may be unwilling to place in the public domain.

These concerns are heightened for institutions subject to public scrutiny, where media exposure of disputes may make confidential proceedings particularly attractive.

The impact dimension adds a further layer: respondents noted that impact investors backing early-stage entrepreneurs may be reluctant to undermine a company’s future prospects following a business failure—for example, where the failure stems from an untested but well-intentioned model—and that confidential proceedings may serve the broader interests of the impact investing sector in that regard.

Chart 13: Whether arbitral awards in impact investment disputes should be made public



The Case for Transparency

Respondents supporting the publication of redacted awards observed that this may be for the benefit of the impact investment community, providing guidance on the resolution of disputes that could help to develop a body of practice specific to impact investment disputes, contributing to the doctrinal infrastructure that the field currently lacks.

From a different angle, some interviewees described preferring public court proceedings in fraud cases, expressly seeking publicity for accountability and deterrence, suggesting that the argument against confidentiality is strongest precisely where impact promises have been abused.

Another interviewee acknowledged that whether confidentiality is desirable depends on the nature of the dispute and the stakeholders involved, reflecting the difficulty of establishing a single rule that serves all impact investing contexts equally well.

More Information

For more information on the 2026 Grunin Center Dispute Resolution Survey and other initiatives of the Grunin Center for Law and Social Entrepreneurship, contact Zvia Schoenberg, Executive Director, at zas2000@nyu.edu.

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