



P.R.I.M.E. FINANCE
Panel of Recognised International Market Experts in Finance

Press release from P.R.I.M.E. Finance Foundation

The Hague, 21 January 2021 — immediate release

P.R.I.M.E. Finance Announces Public Consultation on Draft Revised Arbitration Rules

In the most ambitious revision of its rules since its inception, P.R.I.M.E. Finance, the Hague-based Panel of Recognised International Market Experts in Finance, has today published a draft update of its arbitration rules for public comment. It offers arbitrators and users a comprehensive, clear, and straightforward set of procedural rules specially designed for the arbitration of complex financial disputes.

Key features of the rules include central roles for the Permanent Court of Arbitration and the P.R.I.M.E. Finance panel of arbitrators, greater transparency, provisions to address complex arbitrations, emergency and expedited rules and an emphasis on efficiency. Further details are on the attached Fact Sheet.

Specialist firms, financial institutions, arbitrators and any interested parties are now invited to contribute their comments. The draft of the rules can be found here: <https://primefinancedisputes.org/page/review-of-p-r-i-m-e-finance-arbitration-rules-1>. A series of virtual consultations will also be held in the main financial centres across the world. The consultation period is open until 22 March 2021.

Georges Affaki, Chair of the P.R.I.M.E. Finance Rules Review Drafting Group, said: “The revised P.R.I.M.E. Finance draft rules are rules of their time. They draw on the drafters’ vast experience, both specific to the banking and financial sector and in a plethora of other contexts. They seek to achieve a balance between empowering tribunals to rule on all the situations that may arise in the course of the proceedings, while also ensuring the transparent, fair, and equal treatment of the parties. It is now time for the drafters’ vision to be put to the test by way of public consultation, to ensure that the rules meet the expectations of those who will use them.”

Robert Pickel, Chair of P.R.I.M.E. Finance, commented: “We are hugely grateful to Georges and all those involved so far in the review of the P.R.I.M.E. Finance Rules. I am confident that, at the end of this process, P.R.I.M.E. Finance will emerge with rules that offer a highly attractive arbitration mechanism to financial institutions, their customers, and counterparties. Fundamental to P.R.I.M.E. Finance’s mission is reducing uncertainty and creating stability and confidence in global finance, and revising the rules is a key part of achieving this aim.”

The draft published today is the result of efforts undertaken by pre-eminent banking experts and dispute resolution practitioners representing the world’s major legal systems. They include Georges Affaki, Yas Banifatemi, Chiann Bao, Heikki Cantell, Paula Costa e Silva, Whitney Debevoise, Martin Doe, Grant Hanessian, Bernard Hanotiau, Arthur Hartkamp, Peter Heckel,



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Ulf Koping-Hoggard, Kasper Krzeminski, Carolyn Lamm, George Liakopoulos, Camilla Macpherson, Ali Malek QC, Romina Martinez, Wendy Miles QC, Loukas Mistelis, Philippe Pinsolle, Kathryn Sanger, Hon. Elizabeth Stong, Gaetan Verhoosel, and Marcus van Bevern. The draft reflects breakthrough innovations in international arbitration and draws on hundreds of judgments and awards in relation to financial disputes across a variety of jurisdictions.

About P.R.I.M.E. Finance

P.R.I.M.E. Finance was established to help resolve disputes concerning complex financial transactions. It is dedicated to promoting a more sophisticated approach to financial market dispute settlement.

In 2015, P.R.I.M.E. Finance joined forces with the Permanent Court of Arbitration (the PCA). The PCA is the world's oldest arbitral institution, with over a century of experience in administering complex international proceedings. As a result, arbitrations and mediations under the P.R.I.M.E. Finance Arbitration and Mediation Rules are administered by the PCA, and parties to complex financial transactions have access to an efficient arbitration and mediation mechanism to resolve their disputes.

In 2020, P.R.I.M.E. Finance won the Halsbury Rule of Law Award in the LexisNexis Law Awards, in recognition of its judicial training programme.

Contact for the Media

For further information about this press release, please contact the Head of Secretariat, Camilla Macpherson, at c.macpherson@primefinancedisputes.org.



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Fact Sheet: Five Key Features of the Draft Rules

1. The PCA and the P.R.I.M.E. Panel

As is the case under the current P.R.I.M.E. Finance Arbitration Rules, the PCA has a key role throughout the arbitral process. In addition, P.R.I.M.E. Finance's Panel of specialist arbitrators is to be consulted, when appropriate, for the purpose of nominations or appointments.

The combination of the PCA's efficiency in administering arbitral proceedings and the Panel's subject-matter expertise and brings significant advantages for users in the banking and finance sectors.

2. Transparency

Our drive towards transparency is visible throughout the draft Rules. For example:

- a. Parties are required to disclose any third-party funding arrangement of any claim or defence, and the identity of that third party.
- b. Arbitral tribunals have the power to invite or grant leave to an industry body to appear before it as *amicus curiae* and make submissions on relevant issues.
- c. Final awards are to be published in anonymised form, to permit the emergence of a body of jurisprudence similar to the case law of courts in major financial centres.

3. Complex arbitrations

Complex financial transactions may involve hundreds of parties, sometimes with adverse interests, and multiple contracts. One of the pitfalls in the arbitral process is that expediency often requires that all claimants, on the one hand, and all respondents, on the other, be treated alike, regardless of their interests. The draft Rules include detailed revised joinder and consolidation provisions, and a provision enabling separate arbitrations that are not eligible for consolidation to be coordinated in certain cases.

4. Emergency and expedited rules

The revised rules comprehensively address emergency situations both before and after the tribunal is constituted, with provisions on emergency arbitration, interim measures and expedited rules. The expedited rules will apply automatically to arbitrations with an amount in dispute of EUR 4 million or less.



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5. Efficiency

The draft Rules are built on efficiency. For example:

- a. Tribunals are expected to convene a case management conference with the parties within 30 days of their constitution.
- b. Tribunals with three or more members are required to render the final award within 90 days of the closing of the hearing (or the receipt of the last submissions authorised by the tribunal); for sole arbitrators, the time limit is 60 days.
- c. Tribunals are explicitly empowered to assist the parties in discussing a settlement when appropriate.
- d. Tribunals may decide, after consulting the parties, that hearings will be conducted by remote means of communication.
- e. A dedicated section deals with the Tribunals' empowerment to proceed with the expeditious resolution of manifestly unmeritorious claims or defences.
- f. Parties can choose whether fees are calculated on a time-based system or in proportion to the value of the dispute. Absent agreement, the rules default to a time-based fee system.