

PRIME Finance - specialist panel for resolving global financial disputes

A new and dynamic approach to resolving complex cross-border financial disputes was unveiled this month with the opening conference in The Hague of PRIME Finance, the Panel of Recognised International Market Experts in Finance. The panel comprises a diverse group of high profile judges and experts in the fields of financial markets, arbitration and mediation. Officially opened by the Dutch Finance Minister on 16 January 2012, the panel's dispute resolution services represent a market-driven initiative to create an authoritative body of law and a global understanding of finance issues to assist in resolving high value financial disputes.

As part of its official opening, PRIME Finance has published a set of arbitration rules (modelled on the UNCITRAL arbitration rules) which have been specifically tailored for financial disputes. Although there are a number of leading arbitral institutions that already administer financial disputes, PRIME Finance appears to be uniquely positioned because of its ability to offer a growing pool of arbitrators and financial markets experts with significant expertise in complex financial instruments, such as derivatives and structured products. One notable feature in the PRIME Finance Arbitration Rules is that an award may under Article 34 be published in an anonymised form, provided that no party objects within one month after receipt of the award. This ties in with PRIME Finance's overall goal to promote legal certainty and uniformity in the interpretation of financial instruments, which should be a welcome offering for financial institutions.

Arbitration has traditionally played a significant role in certain sectors, such as international commercial and investment transactions, construction, insurance and shipping. As compared with litigation, arbitration is particularly attractive because of the ability of the parties to select one or more arbitrators (often with relevant experience) and obtain a final award with limited scope for appeal. Arbitration also offers a neutral forum, procedural flexibility and a reliable regime for the cross-border enforcement of arbitral awards, particularly under the New York Convention.

The publication of the PRIME Finance Arbitration Rules has important implications for the financial community. As more and more emerging economies become involved in financial transactions, market participants can achieve a speedy and efficient resolution through arbitration and avoid litigating in an unfamiliar jurisdiction where judges may not be best placed to adjudicate complex financial disputes. The International Swaps and Derivatives Association (ISDA) is also closely examining the option of developing model arbitration clauses for use in international derivative transactions. ISDA's consultation, together with PRIME Finance's launch, illustrate that the use of arbitration is becoming a more prominent and attractive option for resolving disputes in the global financial markets.

See the website for PRIME Finance here:
<http://www.primefinancedisputes.org/>

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