

RESOLVING DISPUTES OF FINANCIAL TRANSACTIONS IN ARBITRATION

Robert Pickel
Former CEO, ISDA
P.R.I.M.E. Finance Expert

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



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



It makes no sense.....

-for parties to fly to remote places for unenforceable decisions
-to turn to local courts without the requisite experience
-to roll the dice in inexperienced courts when parties can pick from a specialist pool
-that a specialised subject matter court or tribunal for global finance doesn't exist
-to put all our eggs in the single basket of better regulation



P.R.I.M.E. Finance's offering

- Panel of Recognised International Market Experts in Finance
- More than 100 hand-picked financial and legal market experts from around the world with a wealth of relevant experience. More being added.
- Activities:
 - Arbitration, mediation and expert witnesses/determinations
 - Judicial programs and support
 - Database of relevant case law



P.R.I.M.E. Finance Panel of Experts

- Each of the experts currently on the P.R.I.M.E. Finance Panel has been carefully vetted and is committed to the goals of P.R.I.M.E. Finance
- Diversity of backgrounds in terms of:
 - geographical representation
 - relevant market experience
 - linguistic skills
 - nationality



P.R.I.M.E. Finance and the PCA

P.R.I.M.E. Finance and the Permanent Court of Arbitration join forces

- New address: Peace Palace in The Hague
- Significant move for both organizations
 - significant step forward, bringing together the technical expertise of P.R.I.M.E. Finance with the well-established institutional framework of the PCA, including the PCA's 40 lawyers and case managers
 - provides prompt and authoritative resolution of disputes



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

Innovative rules for financial market disputes

- Rules
 - P.R.I.M.E. Finance Arbitration Rules
(<http://primefinancedisputes.org/arbitration/arbitration-rules/>)
 - UNCITRAL, institutionalised and tweaked
 - PCA administration
 - “ISDA-fied” provisions:
 - Notice and calculation of periods of time (Article 2)
 - Amicus curiae (Article 30)
 - Applicable law (Article 36)
 - Currency of the award (Article 38)
 - Interest calculation (Article 39)
 - Tax consequences (Article 40)
- Costs
 - Pro bono spirited



An example

- *In re Caesars Entertainment Operating Company, Inc.*, External Review Panel Determination on referral from the ISDA Determinations Committee, decided February 9, 2015 (at: <http://dc.isda.org/cds/caesars-entertainment-operating-company-inc-4/>)

Making a difference

- People; relevant market experience
(cement that binds P.R.I.M.E. Finance)
- Specialist **focus** on **financial** markets
(what distinguishes P.R.I.M.E. Finance)
- Correct answers
(what inspires P.R.I.M.E. Finance)



P.R.I.M.E. Finance Fellowship

- NIAS: Netherlands Institute for Advanced Study in the Humanities and Social Sciences
- Fellowship focuses on role of PRIME and the advancement of P.R.I.M.E. Finance's mission
- Finance is evolving from a relationship world to a regulatory world
- What does this evolution mean for organizations such as P.R.I.M.E. Finance and ISDA
- P.R.I.M.E. Finance can potentially interact with governmental entities in various ways



Redress for Financial Transactions

- Various forms of redress are available to parties
- What means of redress makes most sense will depend on:
 - nature of the aggrieved party
 - financial wherewithal of the aggrieved party
 - complexity of the product
 - the amount at dispute
- Types of redress
 - Financial ombudsman
 - Regulatory relief
 - Mediation
 - Arbitration
 - Litigation



Contact details

<http://primefinancedisputes.org/>

Secretary, P.R.I.M.E. Finance
secretary@primefinancedisputes.org

Robert Pickel
Robert.g.pickel@gmail.com

