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
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
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

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