The Arbitration Review of the Americas 2019

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The Arbitration Review of the Americas 2019

A Global Arbitration Review Special Report

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Country chapters

Global Arbitration Review is delighted to publish *The Arbitration Review of the Americas 2019*, one of a series of special reports that deliver business-focus intelligence and analysis designed to help general counsel, arbitrators and private practitioners to avoid the pitfalls and seize the opportunities of international arbitration. Like its sister reports *The European Arbitration Review*, *The Middle Eastern and African Arbitration Review* and *The Asia-Pacific Arbitration Review* provides an unparalleled annual update – written by the experts – on key developments.

In preparing this report, **Global Arbitration Review** has worked exclusively with leading arbitrators and legal counsel. It is their wealth of experience and knowledge – enabling them not only to explain law and policy, but also to put theory into context – which makes the report of particular value to those conducting international business in the Americas today.

Global Arbitration Review would like to thank our contributors, who have made it possible to publish this timely regional report.

Although every effort has been made to provide insight into the current state of domestic and international arbitration across the Americas, international arbitration is a complex and fast-changing field of practice, and therefore specific legal advice should always be sought.

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Cayman Islands

Mac Imrie and Luke Stockdale
Maples and Calder

The Arbitration Law 2012 (the Law) provides a modern statutory regime based largely on the UNCITRAL Model Law and the English Arbitration Act (1996 Act).

The enforcement in the Cayman Islands of agreements to arbitrate in countries that are parties to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention), and arbitral awards made in such countries, remain largely governed by the Foreign Arbitral Awards Enforcement Law (the Foreign Awards Law). That legislation incorporates the provisions of the New York Convention relating to such matters into Cayman Islands law.

Key features of the Law

The Law is founded upon three main principles:

- the fair resolution of disputes by an impartial tribunal without undue delay or expense;
- party freedom to agree how their disputes are resolved, subject only to safeguards deemed necessary in the public interest; and
- limits on the scope for court intervention in arbitration proceedings.

The Law applies to all arbitrations where the seat of the arbitration is the Cayman Islands (regardless of where the parties are based) and governs the conduct of the arbitration, challenges in the Cayman Islands courts and the enforcement of Cayman Islands arbitral awards within the jurisdiction.

An arbitral tribunal appointed under the Law has wide powers and is essentially able to award any interim or final remedy that a court could have granted if the dispute in question had been the subject of court proceedings. The Law gives the parties the freedom to tailor the arbitral proceedings according to their needs, but also provides default provisions that apply in the absence of agreement. There are certain mandatory provisions of the Law designed to protect the integrity of the arbitration process; for example, by ensuring that the tribunal maintains its impartiality throughout the arbitration and does not have any conflicts of interest. The Law expressly recognises that arbitration proceedings are to be confidential and the limited grounds set out in the Law, upon which an arbitral award may be challenged in the Cayman Islands courts reflect the grounds in the New York Convention.

An arbitration agreement may be in the form of an arbitration clause in a contract or a separate agreement (section 4(1)). An arbitration agreement must be in writing and contained in a document signed by the parties or an exchange of letters, facsimile, telegrams, electronic communications or other communications that provide a record of the agreement (section 4(3)). An arbitration agreement will also be deemed to exist where a party asserts the existence of an arbitration agreement in a pleading, statement of case or any other document in circumstances calling for a reply and the assertion is not denied (section 4(4)).

Jurisdiction

The Law does not impose any restrictions on the types of dispute that may be referred to arbitration. Section 26(1) provides that any dispute that the parties have agreed to submit to arbitration may be determined by arbitration unless the arbitration agreement is contrary to public policy or the dispute is not capable of determination by arbitration under any other law of the Cayman Islands.

One issue relevant to the Cayman Islands financial services industry, particularly in relation to investment funds, which has been the subject of several recent decisions is the winding-up of companies and partnerships. In *Cybernaut Growth Fund, LP* [2014] (2) CILR 413 a petition to wind up and liquidate an investment fund (on just and equitable grounds) had been filed. The fund attempted to strike out or stay the petition on the basis that arbitration proceedings had been commenced in New York pursuant to an arbitration clause in the fund's partnership agreement. The Grand Court concluded that a petition to wind up a company and appoint a qualified insolvency practitioner as liquidator was a dispute that was non-arbitrable. The making of a winding-up order was held to be beyond the scope of an arbitrator's contractual powers.

In Re Sphinx Group (Court of Appeal, 2 February 2016) the Court considered the *Cybernaut* decision and several other recent English decisions concerning the interplay between the courts' winding-up jurisdiction and arbitration. The case concerned an application to release a reserve created during the liquidation of a group of Cayman Islands companies to meet claims by a US law firm that had been engaged to act for the companies on a contingency fee basis. The engagement agreement with the firm contained a New York arbitration clause. The issue before the Court was whether it could decide the issues raised by the application itself, or whether, given the existence of the arbitration clause, some or all of those issues had to be determined by arbitration. The Court held that the question of whether the reserve should be released was dependent upon the validity of the law firm's claims and that issue fell within the scope of the arbitration clause. Accordingly, the Court stayed the application to release the reserve pursuant to the Foreign Awards Law. The Court stated that the reasoning in the *Cybernaut* decision was debateable, but declined to overrule the decision as it was not necessary to do so to determine the appeal and the Court had not heard full argument on that matter. In the *Sphinx* decision the Court demonstrated a willingness to give effect to arbitration agreements in the context of winding-up proceedings and to limit the types of disputes that are non-arbitrable. This issue remains topical and practitioners in the Cayman Islands will continue to monitor developments in this area with interest.

Where the respondent wishes to raise objections regarding the tribunal's jurisdiction, he must first do so with the tribunal. Under section 27(1), the arbitral tribunal may rule on its own

jurisdiction, including any objections to the existence or validity of the arbitration agreement. A party may also resist enforcement in the Cayman Islands of an award made here on the ground that the tribunal lacked jurisdiction (section 72(3)).

Under section 9, where a party to an arbitration agreement institutes court proceedings in respect of any matter falling within the arbitration agreement, the other party to the arbitration agreement may apply to the court for an order staying the proceedings. The court must then grant a stay unless it finds that the arbitration agreement is null and void, inoperative or incapable of being performed. A party that takes a step in the court proceedings to answer the substantive claim loses its right to apply for a stay of the proceedings (section 9(1)).

The court is also required to grant a stay in favour of foreign arbitral proceedings pursuant to section 4 of the Foreign Awards Law. This provision has been applied by the Cayman Islands courts (eg, *INEC Engineering Company v Ramoil Holding Company* [1997] CILR 230 and Sphinx).

The law of the Cayman Islands does not allow an arbitral tribunal to assume jurisdiction over individuals or entities that are not parties to an arbitration agreement. In *Unilever plc v ABC International* [2008] CILR 87, the court granted injunctive relief restraining the defendant from initiating arbitration proceedings against various companies that had owned the entity, which was a party to an arbitration agreement with the defendant over a period of time. The court stated that the group enterprise theory is not a doctrine recognised by Cayman Islands law.

Limitation

Section 14(1) provides that the Limitation Law (1996 Revision) applies to arbitration proceedings as it applies to court proceedings. Under the Limitation Law, contract claims must be commenced within six years of the breach of contract and tortious claims must be commenced within six years of the date on which damage is suffered. Claims for the recovery of land must be commenced within 12 years of the cause of action accruing.

Conflicts of laws

The Cayman Islands courts apply common law conflict of law rules. The choice of law rule for a contract provides that a contract is governed by its proper law which, in the absence of an express or implied choice by the parties, is the law with which the contract has its closest and most real connection.

The application of foreign law in arbitral proceedings in the Cayman Islands is not possible to the extent that such law is contrary to public policy or to the provisions of any statute that have overriding effect.

Selection of arbitrators

The Law does not impose any limits on the parties' freedom to select arbitrators. The parties are free to agree on the number of arbitrators, the procedure for their appointment and the qualifications that the arbitrators must possess (sections 15(1) and 16(1)).

Section 16(2) sets out the procedure to be followed for appointing the tribunal where the parties have not agreed on a procedure or chosen a set of institutional rules that provides a procedure for the appointment of the tribunal. In an arbitration with a sole arbitrator, the arbitrator is appointed by a party to the agreement making a request to the person or appointing authority chosen by the parties; or, if no such choice has been made, to the person or authority designated by the court (the appointing authority). In an arbitration with two or more arbitrators, an odd number must be appointed by the parties either each appointing an arbitrator and then jointly agreeing to the appointment of a subsequent arbitrator, or jointly agreeing to the appointment of an odd number of arbitrators.

Where a party fails to appoint an arbitrator – or if the parties fail to agree on the appointment of an additional arbitrator within 30 days of a request to do so – the appointment is to be made by the appointing authority (section 16(3)). An application may also be made to the appointing authority for assistance with the appointment of the tribunal where one party fails to act in accordance with any agreed procedures, or the parties cannot reach agreement.

The matters to be taken into account by the appointing authority in the selection of an arbitrator include the subject matter of the arbitration, the availability of any proposed arbitrator and any qualifications required by the arbitration agreement or otherwise by the parties. The appointing authority must also have regard to such considerations as are likely to secure the appointment of an independent and impartial arbitrator (section 16(5)).

The court has only a limited role to play in the appointment process. Its function consists of designating an appointing authority where none has been chosen by the parties rather than making appointments directly.

Sections 18(1) and 18(2) provide that, both before and during his appointment, an arbitrator is under an obligation to disclose any circumstances that might reasonably compromise his impartiality or independence.

> *(a) Pursuant to section 18(3) a challenge may be brought against an arbitrator where:*
>
> *(i) circumstances exist that give rise to justifiable doubts as to his impartiality or independence; or*
>
> *(ii) he does not possess the qualifications to which the parties have agreed.*

A party may not bring a challenge against an arbitrator which he or she appointed, or participated in the appointment of, unless the grounds for the challenge became known to the party after the appointment was made (section 18(4)). These provisions mirror article 12 of the UNCITRAL Model Law.

Procedure

Parties may tailor the rules of procedure to meet their needs, subject to the mandatory provisions of the Law. The duties of the tribunal in conducting arbitral proceedings are set out in section 28 and cannot be altered by agreement. The tribunal must act fairly and impartially, allow each party a reasonable opportunity to present his or her case and conduct the arbitration without unnecessary delay or expense.

The matters that the parties may agree upon – or failing agreement, which are to be determined by the tribunal in accordance with the Law – include the seat of the arbitration (section 30(1)), the language of the arbitration (section 31(1)) and the timetable for the submission of statements of claim and defence (section 32(1)).

The tribunal must determine whether to hold an oral hearing for the presentation of evidence (section 33(1)(a)). Unless the parties have agreed that no such hearing will be held, the tribunal must hold a hearing if requested by a party (section 33(2)). The parties must be given sufficient notice in advance of any hearing or any meeting of the tribunal for the purposes of inspecting documents, goods or any other property (section 33(3)).

Section 34 provides that, unless otherwise agreed, a party to an arbitration agreement may be represented in arbitral proceedings by a legal practitioner admitted to practise in the Cayman Islands or by any other person chosen by him. This would include a lawyer admitted to practise outside the Cayman Islands. Any lawyer coming to the Cayman Islands to participate in arbitration proceedings would need to obtain a temporary work permit from the Cayman Islands government.

Section 25(1) provides that an arbitrator is not liable for any consequences or costs resulting from any negligent acts or omissions in his capacity as arbitrator, or any mistakes of law, fact or procedure in the course of the arbitration proceedings.

Interim remedies

Section 43 gives the court certain powers that are exercisable in support of arbitral proceedings, including:

- in relation to security for costs;
- disclosure;
- compelling a witness to attend the court and give evidence or produce documents; and
- the power to secure the amount in dispute and to prevent the dissipation of assets against which an award may be enforced and the power to grant interim injunctions.

In urgent cases, the court may grant orders preserving evidence or assets on the application of a party, or proposed party, to arbitral proceedings. In non-urgent cases, the court may also grant other forms of relief, but only where the application has been made with the permission of the tribunal or the written agreement of the other parties to the arbitral proceedings. In either case, the court may only act if and to the extent that the tribunal has no power or is unable, for the time being, to act effectively.

All directions given by the arbitral tribunal may, with the permission of the court, be enforceable in the same manner as if they were orders made by the court. Judgment may also be entered in the terms of the directions given by the tribunal (section 38(5)) where permission is given.

Part VIII of the Law contains detailed provisions relating to the granting of interim relief by an arbitral tribunal based on articles 17 and 17A-17I of the UNCITRAL Model Law as amended in 2006. The tribunal need not seek assistance from the court before granting interim relief.

Under section 44, in the absence of an agreement to the contrary, the tribunal may grant interim relief prior to the issue of its award requiring a party to:

- maintain or restore the original position of the other party pending determination of the dispute;
- take action that would prevent or refrain from action that would cause harm or prejudice to the arbitral process;
- provide a means of preserving assets out of which the tribunal's award may be satisfied; or
- preserve evidence that may be relevant and material to the dispute.

Section 54 provides that the court is to have the same power of issuing interim measures in relation to arbitration proceedings, irrespective of whether the seat of the arbitration is the Cayman Islands, as it has in relation to court proceedings. The court is therefore able to grant injunctive and other relief similar to that which the tribunal may grant.

In light of the principle of non-intervention by the court in arbitration proceedings set out in section 3(c), the court may only be willing to grant interim relief where the tribunal is unable to act itself. Instances such as this may include where the tribunal has not yet been appointed or where relief is sought against a person who is not a party to the arbitration agreement. It is expected that the courts will follow the approach adopted by the English courts under the 1996 Act of recognising the arbitral tribunal as having primary responsibility for granting interim relief and only acting where the tribunal is unable to do so.

The Cayman Islands courts have, in the past, been willing to grant antisuit injunctions to restrain foreign court proceedings where the Cayman Islands is the natural forum for the action and the commencement or continuation of the foreign proceedings is regarded as vexatious or oppressive (see, for example, *In re Cotorro Trust* [1997] CILR 1).

The Cayman Islands' courts are not bound by the principle established by the European Court of Justice in *Allianz SpA v West Tankers Inc* (Case C-185/07), whereby courts in the member states of the EU may not issue antisuit injunctions to restrain proceedings in other EU member states commenced in breach of an arbitration agreement. Accordingly, it would be open to the Cayman Islands courts to restrain foreign proceedings brought in breach of an arbitration agreement whether the proceedings have been commenced in the courts of a member state of the EU or another country.

Evidence

Unless the parties agree otherwise, the tribunal may conduct the arbitration in such manner as it considers appropriate. This includes the power to determine the admissibility, relevance, materiality and weight of any evidence (sections 29(2) and (3)). The parties may agree on whether they wish the tribunal to apply rules of evidence in the arbitration, or in the absence of such an agreement, the tribunal must determine whether to apply rules of evidence, such as under the International Bar Association Rules on the Taking of Evidence in International Arbitration. To the extent that the parties or the tribunal wish to have regard to the rules of evidence that apply in court proceedings in the Cayman Islands, the Grand Court Rules are not dissimilar to the former Rules of the Supreme Court in force in England prior to the commencement of the Civil Procedure Rules in 1999.

The parties are free to agree on the extent to which the tribunal is to have the power to order any party to provide disclosure of documents. In the absence of an agreement, the tribunal will have such power to make disclosure orders as it considers appropriate (section 38(2)(b)).

Content of award

The requirements as to the form and content of all arbitral awards are set out in section 63. The arbitral award must be made in writing and signed by the tribunal. The award must state the reasons upon which it is based, unless the parties have agreed that reasons are not to be stated, or the award is made for the purpose of recording a settlement that they have reached.

Where the tribunal consists of two or more arbitrators, the majority may sign the award if the reason for any arbitrator's signature being omitted is stated in the award. A single signature by each arbitrator on the final page is sufficient. Signed originals of the award must be provided to each party. The date of the award and seat of the arbitration must also be stated in the award.

Unless otherwise agreed, the tribunal may make more than one award at different times during the arbitral proceedings on different aspects of the matters to be determined. Such awards

could include an award determining particular facts, an award relating to the existence or non-existence of particular conditions or an award relating to compliance or non-compliance with a particular rule, standard or quality. Where the tribunal makes such an award, it must specify the issue, claim or part of a claim that is the subject matter of the award (section 56).

The Law does not impose a time limit on the tribunal for the making of its award but allows the parties to agree to do so (section 59).

Challenging an award

There are two grounds upon which a party may challenge an arbitral award made in the Cayman Islands.

First, a party may apply to the Grand Court of the Cayman Islands under section 75 to set aside an award on the grounds that:

- a party to the arbitration agreement was under an incapacity or placed under duress to enter into an arbitration agreement;
- the arbitration agreement is not valid under the law to which the parties have subjected it, or failing any indication thereof, under Cayman Islands law;
- the party making the application was not given proper notice of the appointment of the tribunal or the arbitration proceedings or was unable to present his case;
- the award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration;
- the composition of the tribunal was not in accordance with the parties' agreement or the Law;
- the making of the award was affected by fraud; or
- a breach of the rules of natural justice occurred in connection with the making of the award.

The Court may also set aside an award if it finds that the subject matter of the dispute is not capable of settlement by arbitration, or that the award is contrary to public policy.

Second, unless otherwise agreed, a party may, with the permission of the Grand Court, appeal on a question of law arising out of the arbitral award under section 76. Before it grants permission, the court must be satisfied that:

- the determination of the question will substantially affect the rights of one or more of the parties;
- the question is one that the tribunal was asked to determine;
- on the basis of the tribunal's findings of fact, its decision on the question is obviously wrong, or the question is one of general public importance and the decision of the tribunal is at least open to serious doubt; and
- it is just and proper for the court to determine the question in spite of the parties' agreement to arbitrate (section 76(4)).

On appeal, the court may confirm the award, vary the award, remit the award to the tribunal in whole or in part for reconsideration or, where the latter would be inappropriate, set aside the award in whole or in part (sections 76(7) and (9)).

The right to bring an appeal on a question of law under section 76 may be excluded by agreement between the parties but the right to bring an application to set aside an award under section 75 cannot.

The Law does not specify whether an application to set aside an award is to be determined by way of review or a rehearing, but the UK Supreme Court has determined that, in relation to the equivalent provision in the 1996 Act, the court is to conduct a rehearing on the question of the tribunal's jurisdiction (see *Dallah Real Estate and Tourism Holding Co v Ministry of Religious Affairs, Government of Pakistan* [2011] 1 AC 763). This decision is likely to be influential in the Cayman Islands.

Before an application to set aside an award under section 75, or an appeal under section 76, may be brought, the party wishing to challenge the award must first have exhausted every available arbitral process of appeal or review (section 77(2)). The deadline for bringing an application to set aside an award or appeal is one month from the date of the award, or from the date on which the applicant or appellant was notified of the results of any arbitral process of review or appeal (section 77(3)).

The court's approach to granting security for costs to a party opposing a challenge to the award differs depending upon whether the challenge goes to the jurisdiction of the tribunal or an alleged irregularity affecting the tribunal or the arbitral proceedings other than a lack of jurisdiction. In the former case, the party seeking security must show that the challenge to the jurisdiction of the tribunal is flimsy or lacking in substance to obtain security for its costs of opposing the challenge, but that requirement does not apply in the latter case (*Appalachian Reins. (Bermuda) Ltd v Mangino* 2014 (1) CILR 152).

Foreign arbitral awards

The United Kingdom government extended the operation of the New York Convention to the Cayman Islands by way of a notification to the secretary general of the United Nations, which took effect on 24 February 1981.

The enforcement in the Cayman Islands of awards made in states which are parties to the New York Convention has been a straightforward exercise since the enactment of the Foreign Awards Law in 1975 and the Cayman Islands courts have readily enforced such awards under this legislation (see, eg, *In the Matter of Swiss Oil Corporation: InMar Maritima SA and Others v Republic of Gabon* [1988-89] CILR 277 and *Tèk Technologies Corporation v Dockery* [2000] CILR 196). The grounds for refusing enforcement set out in section 7 of the Foreign Awards Law match those in the New York Convention and are the same as those in section 103 of the English Arbitration Act 1996. In interpreting a foreign arbitral award, the court gives the award its plain and obvious meaning, thereby giving it an autonomous interpretation without recourse to domestic law: *MNC Media Investment Limited v Ang Choon Beng @ Ang Siong Kiat* [2016] CILR Note 1).

Enforcement

Under the Law and the Foreign Awards Law, an award may be enforced in the same manner as a judgment or order of the court to the same effect, and where permission is given, judgment may be entered by the court in the same terms as the award (sections 72(1) and (2) of the Law and section 5 of the Foreign Awards Law).

The decision of the Privy Council in *Associated Electric and Gas Insurance Services Ltd v European Reinsurance Company of Zurich* [2003] 1 All ER (Comm) 253, in which the court held that the principle of issue estoppel applies to arbitration awards in the same way as to court judgments, is highly likely to be followed in the Cayman Islands.

Accordingly, a party is precluded from contradicting the decision of an arbitral tribunal on any issue of fact or law that has been determined in a final and binding award in any subsequent arbitration or court proceedings between the same parties and any other parties claiming through them.

If leave to enforce the award is granted on the ex parte application of the party which succeeded in the arbitration, the

defendant may apply to set aside the order enforcing the award, within 14 days of service of the order granting leave, or if the order is to be served out of the jurisdiction, within the time fixed by the court (*Globeop Financial Services LLC v Titan Capital Group* III LP 2014 (1) CILR 412). The Grand Court may adjourn the enforcement proceedings and may, on the application of any party seeking to enforce the award, order the other party to give security. This can include interim relief, such as a freezing injunction, in appropriate circumstances.

Confidentiality

Section 81 provides that the tribunal shall conduct arbitral proceedings in private and confidentially. Subject to limited exceptions, any disclosure by the tribunal or another party of confidential information relating to the arbitration is actionable as a breach of an obligation of confidence, and the tribunal and all parties must take reasonable steps to prevent the unauthorised disclosure of confidential information by any third party involved in the arbitration proceedings.

The exceptions to the obligation of confidentiality in section 81 include where disclosure is:

- expressly or impliedly authorised;
- required in order to comply with any enactment or rule of law;
- reasonably considered as necessary to protect a party's lawful interests;
- in the public interest; or
- necessary in the interests of justice.

In relation to proceedings to enforce arbitral awards, a non-party to the proceedings will generally only have a limited right of access to the documents filed in the proceedings and the court has the power to order the sealing of any documents filed in the proceedings. See for example in the context of the enforcement of an arbitral award *Sasken Communication Technologies Limited v Spreadtrum Communications Inc* [2016] (1) CILR 1.

Remedies

The parties are free to agree on the remedies that the tribunal may grant (section 57(1)). Unless otherwise agreed, the tribunal may award any remedy or relief that could have been ordered by the Cayman Islands courts if the dispute had been the subject of civil proceedings before such courts (section 57(2)).

Punitive damages are not awarded by the Cayman Islands courts and so, in the absence of an agreement to confer such power on it, an arbitral tribunal would not be able to award punitive damages.

Under section 58, the tribunal may award interest calculated in the manner agreed by the parties or, where there is no agreement, in the manner determined by the tribunal. Interest may be awarded on the whole or any part of an amount which the tribunal orders to be paid, in respect of any period up to the date of the award. Interest may also be awarded on amounts that the tribunal orders to be paid, including pre-award interest and any award of arbitration expenses, from the date of the award up to the date of payment. Unless the tribunal directs otherwise, its award carries interest from the date of the award at the same rate as a judgment debt.

Costs and tax

Unless a contrary intention is expressed, every arbitration agreement is deemed to include a provision that the costs of the arbitration shall be at the discretion of the tribunal (section 64(1)). If the tribunal does not make provision in its award with respect to the costs of the arbitration, any party may apply for a direction from the tribunal regarding such costs within 14 days of the delivery of the award, or such further time as the tribunal allows (section 64(2)). Costs will usually follow the event and the unsuccessful party will be ordered to pay the successful party's costs.

There are no income, capital gains, consumption or corporation taxes in the Cayman Islands, although stamp duty often applies to real estate transactions. Accordingly, it is unlikely that an arbitral award made in the Cayman Islands will have any local tax implications, unless it relates to the transfer of real estate or importation of goods into the Cayman Islands (in respect of which import duty is usually payable).

Investor–state arbitrations

The United Kingdom extended the operation of the Washington Convention to the Cayman Islands with effect from 20 February 1967, pursuant to the Arbitration (International Investment Disputes) Act 1966 (Application to Colonies Etc) Order 1967.

Summary

Financial services institutions and professional advisers are now increasingly incorporating Cayman Islands arbitration clauses into their agreements.

Mac Imrie
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Mac Imrie is a partner with Maples and Calder and is based in the Cayman Islands. He has broad experience in multi-jurisdictional commercial litigation, arbitration and regulatory matters. Mac regularly works on mutual fund and hedge fund disputes, and in crisis situations. He has been involved in several high-profile fund collapses and resultant litigation and arbitration. Many of Mac's cases involve obtaining interim protection for creditors and shareholders. He has significant advocacy experience having appeared as counsel before numerous courts and tribunals around the world.

Luke Stockdale
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Luke Stockdale is an associate with Maples and Calder and is based in the Cayman Islands. He has a broad range of experience in commercial litigation and arbitration with an emphasis on complex and multi-jurisdictional matters. He has worked across a range of industry sectors and has considerable experience in banking and finance and investment fund disputes, company law and trust disputes. Luke frequently advises on Cayman Islands arbitration issues and the provisions of the Arbitration Law 2012.

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Maples and Calder was founded over 50 years ago and today is a leading international law firm advising financial, institutional, business and private clients around the world on the laws of the British Virgin Islands, the Cayman Islands, Ireland and Jersey.

Our lawyers frequently deal with arbitration clauses contained within commercial contracts. We advise on the meaning and effect of arbitration clauses, the enforcement of arbitration awards and the conduct of arbitrations.

Because most arbitrations arising in the Cayman Islands and British Virgin Islands financial services industries involve international parties and sensitive legal and commercial issues, the majority of arbitrations take place in London, New York, Dubai or Asia, and we are familiar with the international arbitration conventions and rules. We also provide expert testimony on matters of Cayman Islands and British Virgin Islands laws for use in foreign arbitrations.

Where appropriate, we recommend and participate in mediation and other forms of alternative dispute resolution such as settlement meetings and bidding mechanisms.

Maples and Calder has a network of offices around the world comprised of locations which include the British Virgin Islands, Cayman Islands, Dubai, Dublin, Hong Kong, Jersey, London and Singapore. The service provided is enhanced by the strong relationships the firm has developed with leading legal counsel in the major financial and commercial centres around the globe, delivering time zone convenience and a global multi-office capability. For fiduciary and fund services requirements, the firm provides a seamless, 'one-stop shop' capability through its affiliate, MaplesFS.

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