



## Procedures for the Administration of Arbitration under the UNCITRAL Arbitration Rules

The Hong Kong International Arbitration Centre (“HKIAC”) has introduced the new HKIAC Procedures for the Administration of Arbitration under the UNCITRAL Arbitration Rules (the “New Procedures”), effective as of January 1, 2015. The New Procedures provide one system that conforms with all versions of the UNCITRAL Arbitration Rules, superseding the HKIAC’s previous procedures for the administration of arbitrations under the UNCITRAL Arbitration Rules.

The New Procedures were introduced to unify the arbitral process for arbitrations being conducted in accordance with the UNCITRAL Arbitration Rules, regardless of whether it was the 1976 or 2010 version that was being used.

### Application of the New Procedures

The New Procedures apply to all arbitrations commencing on or after January 1, 2015, pursuant to an agreement to arbitrate or a treaty that protects investments or investors, which either (i) provides for the New Procedures to apply or (ii) stipulates that the HKIAC administer arbitration under the UNCITRAL Arbitration Rules, or words to similar effect.

### Key Highlights of the New Procedures

**Serving Notice of Arbitration and Response to the Notice of Arbitration (Article 6 and 7).** Parties who want to initiate recourse to arbitration must submit a notice of arbitration to the HKIAC and serve the notice to all other parties in the arbitration. Those parties, within 30 days of the receipt of notice, must file a response to the HKIAC and serve the response to all other parties in the arbitration. This provision now puts the onus on the parties (as opposed to the HKIAC) to serve the notice and response on the other parties.

**Procedure for Challenging Arbitrators (Article 10).** This new provision allows the HKIAC to decide a challenge to an arbitrator in accordance with the procedures in the applicable practice note. The practice note stipulates details such as how and when a challenge must be made, the need for payment of a registration fee of HK\$50,000, how the other party and challenged arbitrator may respond, and that the HKIAC is under no obligation to give reasons for its determination when it decides whether to allow or reject a challenge.

**HKIAC's *Prima Facie* Power to Proceed (Article 11).** When there is a challenge to the existence, validity, or scope of the arbitration agreement(s) or to the competence of the HKIAC to administer the arbitration before the constitution of the arbitral tribunal, the HKIAC can let an arbitration proceed if it is satisfied, *prima facie*, that an arbitration agreement may exist under the New Procedures.

**Deposit of Costs (Article 16).** The parties will deposit with the HKIAC an equal amount as an advance for the costs of the arbitration and may be requested by the HKIAC (after consultation with the arbitral tribunal) to make further deposits.

**Exclusion of Liability (Article 19).** Except for dishonest acts done or omitted to be done, certain parties are not liable for any act or liability in connection with the arbitration. These parties include the HKIAC, its personnel, other bodies designated by the HKIAC to perform functions referred to in the New Procedures, the arbitral tribunal, any tribunal-appointed expert, or a secretary of the arbitral tribunal. Furthermore, they are not required to make further statements concerning the arbitration or appear as witness in any proceedings arising out of the arbitration once the arbitral award has been made and the possibilities of correction, interpretation, and additional awards have been exhausted.

## Lawyer Contacts

For further information, please contact your principal Firm representative or one of the lawyers listed below. General email messages may be sent using our "Contact Us" form, which can be found at [www.jonesday.com](http://www.jonesday.com).

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