

## Newsletter

### *Hong Kong International Arbitration Centre has obtained the right to administer arbitration disputes in Russia*

April 12, 2019

Dear Ladies and Gentlemen,

On 04 April 2019, the Council for Arbitration Development at the Ministry of Justice of the Russian Federation authorized Hong Kong International Arbitration Centre ("**HKIAC**") to administer arbitration disputes with the seat in Russia. By 25 April 2019, the Ministry of Justice is expected to include HKIAC into the list of foreign arbitration institutions with the status of a permanently functioning arbitration institution ("**PFAI**").

We remind our readers that as a result of the arbitration reform, awards of foreign arbitration institutions that are not included in the above mentioned list are deemed to be rendered *ad hoc*, which implies certain restrictions in contrast as compared to the awards of the PFAIs.

The new status of HKIAC, as the only foreign institution competent to arbitrate disputes seated in Russia, gives it several advantages.

First, HKIAC is now authorized to arbitrate the following types of Russian corporate disputes:

- (A) disputes concerning the ownership of shares in the Russian companies, particularly disputes arising out of share purchase agreements;
- (B) disputes arising out of agreements between shareholders of the Russian companies concerning the management of that company, including disputes arising from corporate (shareholders') agreements.

We draw your attention to the fact that HKIAC does not have special rules for corporate disputes. Because of this and due to the conflicting Russian regulation, we may not exclude the risk that arbitration

of the disputes mentioned in par. (B) by HKIAC may be problematic. Additionally, the lack of special rules for corporate disputes prevents HKIAC from arbitrating some other corporate disputes.

The second advantage of the new status of HKIAC is that its awards from now on will be considered final, provided the text of the arbitration agreement expressly stipulates it. Moreover, PFAI status allows the parties to the arbitration to apply to a state court for assistance in evidence collection, as well as to limit the powers of the state court to intervene into the proceedings, particularly, on the issue of appointment and challenge of the arbitrators.

It is important to note that, as HKIAC does not have a separate subdivision in Russia, it is still precluded from administering domestic disputes between Russian parties with the seat of arbitration in Russia. In addition, in accordance with Russian regulation, some corporate disputes remain non-arbitrable, particularly disputes regarding Russian strategic companies.

The decision of the Council for Arbitration Development is an important step towards the development and promotion of arbitration in Russia as well as towards more efficient enforcement of the legal agreements entered in respect to the Russian companies. Amongst the abovementioned benefits, the approval of HKIAC's request may encourage other foreign arbitration institutions to submit their requests for authorization to administrate disputes with the seat of arbitration in Russia.

We hope that the information provided herein will be useful for you. If any of your colleagues would also like to receive our newsletters, please let us know by sending us his/her email address in response to this message. If you would like to learn more about our [Dispute Resolution Practice](#) and [Corporate Law Practice](#), please let us know in reply to this email. We will be glad to provide you with our materials.

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If you have any questions,  
please, do not hesitate  
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